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LEGAL DEPARTMENT

THE MADRAS CODE

IN FOUR VOLUMES

VOLUME I

Unrepealed Regulations of the Governor of Fort St. George in Council, unrepealed Central Acts of Local Application in force in the State of Madras, unrepealed Regulations made under the Government of India Act, 1870, unrepealed Madras Regulations made under section 92 (2) of the Government of India Act, 1935, and paragraph 5 (2) of the Fifth Schedule to the Constitution of India and unrepealed Madras Acts, 1862–1918

Seventh Edition

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PREFACE.

The present, the seventh, edition of the Madras Code contains all unrepealed enactments made till the end of December 1951 which are applicable to the Madras State and which are not of all-India application. This edition, like the last, consists of four volumes and five Parts. Part I consists of the Regulations made by the Governor of Fort St. George in Council during the years 1802–1832, Part II of Acts of the Central Legislature of Local Application in the State of Madras, Part III of Regulations made by the Governor-General under the Government of India Act, 1870 (33 Vict. ch. 3), Part IV of Regulations made by the Governor of Madras under section 92 (2) of the Government of India Act, 1935 (26 Geo. 5, ch. 2) and under paragraph 5 (2) of the Fifth Schedule to the Constitution of India, and Part V of Acts passed by the Madras Legislature from 1862 onwards. Volume I contains Parts I to IV and the Madras Acts from 1862 to 1918 in Part V. Volume II contains the Madras Acts from 1919 to 1922, Volume III the Madras Acts from 1923 to 1939 and Volume IV the Madras Acts from 1940 to 1951.

2. The Acts and Regulations included in this edition are printed generally as modified up to the end of December 1951. All modifications made by the Indian (Adaptation of Existing Indian Laws) Order, 1947, and the Adaptation of Laws Order, 1950, have been carried out.

3. This edition is issued in the style of the loose-leaf binder in order to make it easier to maintain a corrected up-to-date copy of the Code for ready reference. The paging of all the four volumes is continuous, and whenever changes are made hereafter by any repealing or amending enactment, it is proposed to issue replacement pages embodying such changes for insertion at the appropriate places. A separate loose-leaf binder will also be issued for the Fifth volume along with the first new enactment to be included in that volume. Subsequent new enactments should, therefore, be included in that volume.

4. Certain enactments which are in force only in the Scheduled areas of this State, for instance, the Malabar Marriage Act, 1896, and the Malabar Marriage (Amendment) Act, 1898, have not been included in this edition.

5. Amending Acts which make purely textual amendments to the principal Acts have been omitted except those which amend Central Acts. The Madras Re-enacting and Repealing (No. 1) Act, 1948 (Madras Act VII of 1948), the Madras Re-enacting Acts of 1948, 1949 and 1950, namely, Madras Acts VIII and IX of 1948, X of 1949 and III of 1950 and the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951), have been printed *in extenso*. Temporary Acts such as the Madras Prohibition (Temporary Amendment) Act, 1947 (Madras Act XXXIII of 1947), the Madras Tenants and Ryots Protection Act, 1949 (Madras Act XXIV of 1949), the Madras Buildings (Lease and Rent Control) Act, 1949 (Madras Act XXV of 1949), the Madras Preservation of Private Forests Act, 1949 (Madras Act XXVII of 1949), and the Madras Essential Articles Control and Requisitioning (Temporary Powers) Act, 1949 (Madras Act XXIX of 1949), have also been included.

6. The enactments have been printed in chronological order. A chronological table is prefixed to each volume showing the short titles of the enactments contained therein and the manner in which each enactment has been affected by later legislation. A concise index is also added at the end of each volume.

K. V. RAJAGOPALAN,
Secretary to Government, Legal Department.

FORT ST. GEORGE, MADRAS,
Dated the 12th December 1952.

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* Came into force on 1st January 1952.

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* Repealed by Madras Act XIII of 1938.
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† Repealed by Madras Act VI of 1937.
‡ Came into force on the 1st April 1951.
§ Repealed by Madras Act XIII of 1938.

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* Deemed to have come into force on the 1st April 1937.
† Repealed by Madras Act XIII of 1938.
‡ The whole of this Act has ceased to be in force in the local areas in the State where Madras Act X of 1937 has come into force.

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Year.	Number.	Short title.	Repeals and amendments.	Page
(1)	(2)	(3)	(4)	(5)
1888—*cont.*	III—*cont.*	The Madras City Police Act, 1888—*cont.*	Amended, Madras Acts *III of 1898* *, III of 1907, *XIII of 1929* *, *VI and XIII of 1933* *, XX of 1936, R. 5, VII of 1940, XIII of 1941†; XXII of 1941, XXIII of 1941, XX of 1942, XXXI of 1942, Ordinance No. XI of 1942, Madras Acts VIII of 1947, XXVIII of 1947, ‡VII of 1949, XLII of 1949, XXXV of 1950, XIII of 1951 and XIV of 1951. *See* § Madras Act XXIII of 1943.	
1889	I	The Madras Village Courts Act, 1888.	Repealed in part, XI of 1901, s. 3. Amended, Madras Acts IV of 1904 ‖, s. 3, II of 1920 ¶, *XV of 1929* *, *XV of 1935* *, II of 1937, R. 5, XVIII of 1940, XIV of 1951, XVI of 1951**. *See also* Madras Act X of 1950††.	493–519
	III	The Madras Towns Nuisances Act, 1889.	Repealed in part, XI of 1901, s. 3; Madras Acts III of 1930 and ‡‡ XIII of 1945. Amended, Madras Acts *III of 1909* *, XXIII of 1941 and XX of 1942 and XIV of 1951; XXXIV of 1951.	520–524
1890	II	The Madras Canals and Public Ferries Act, 1890.	Repealed in part, XI of 1901, s. 3. Amended, Madras Acts *II of 1895**, V of 1914, VIII of 1914, s. 2, §§ VII of 1939, XX of 1941 and XIV of 1951.	525–531
1891	I	The Madras General Clauses Act, 1891.	Amended, Madras Acts II of 1896, XI of 1920 and IV of 1937, R. 5.	532–540
1893	V	The Madras Revenue Enquiries Act, 1893.	....	541
1894	I	The Madras Board of Revenue Act, 1894.	Repealed in part, XI of 1901, s. 3.	542

* Repealed by Madras Act XIII of 1938.
† Sections 71-B to 71-L came into force on 1st January 1944.
‡ Sections 1, 3 and 5 came into force on 5th April 1949.
§ Section 1 came into force on 23rd November 1943 and the remaining sections applied to certain Parts of the State by notifications issued from time to time.
‖ Repealed by Madras Act VI of 1937.
¶ Sections 3 to 24, 26 and 27 and the Schedule repealed by Madras Act XIII of 1938.
** Not yet come into force.
†† Came into force on the 1st April 1951.
‡‡ Section 1 came into force on 17th July 1945 and the remaining provisions extended to certain parts of the State by notifications issued from time to time.
§§ Came into force on 1st April 1939. Repealed in part by Madras Act XIV of 1951.

PART V—*cont.*

Unrepealed Madras Acts—cont.

Year.	Number.	Short title.	Repeals and amendments.	Page.
(1)	(2)	(3)	(4)	(5)
1894—*cont.*	II	The Madras Proprietary Estates' Village-service Act, 1894.	Repealed in part, Madras Act IV of 1911, s. 2. Repealed in part and amended, Madras Act III of 1914.* Amended, Madras Acts III of 1895, † IV of 1900, s. 1. VII of 1930, XVIII of 1941, XXI of 1943 ‡, IV of 1950 and XIV of 1951.	543–556
1895	III	The Madras Hereditary Village Offices Act, 1895.	Repealed in part, XI of 1901. Repealed in part and amended, IV of 1907. Amended, Madras Acts II of 1897 and VII of 1930, XVIII of 1931, XXVIII of 1942,‡ XXI of 1943, IV of 1950, XXXVI of 1950 and XIV of 1951.	556–568
1896	III	The Malabar Land Registration Act, 1895.	Amended, Madras Acts *I of 1920*§ *and II of 1935*§; XXXIII of 1951 ‖.	568–573
1897	II	The Madras Hereditary Village Offices (Amendment) Act, 1897.	....	Not printed.
1898	V	The Malabar Wills Act, 1898.	....	574–577
1899	III	The Madras Registration of Births and Deaths Act, 1899.	Amended, Madras Acts I of 1939, R. 5, II* of 1942, XIX of 1945 and XXXVII of 1949.	578–584
¶ 1899	IV	The Madras Court of Wards (Amendment) Act, 1899.	....	585
1900	I	The Malabar Compensation for Tenants Improvements Act, 1899.	Repealed in part, XI of 1901. Amended, Madras Act XXXIII of 1951‖.	585–591
	II	The Madras Coffee-stealing Prevention Act, Amendment Act, 1900.	....	Not printed.
	V	The Madras Irrigation Cess (Amendment) Act, 1900.	....	591
1902	I	The Madras Court of Wards Act, 1902.	Amended, Madras Acts *I of 1911*§ ; XXXVIII of 1920 and XVII of 1933§.	592–616

* Sections 3 to 7 and 9 to 14 repealed by Madras Act XIII of 1938.
† Repealed by Madras Act VI of 1937.
‡ Deemed to have come into force on the 3rd September 1939.
§ Repealed by Madras Act XIII of 1938.
‖ Sections 1, 48, 49, 51, 54 and 55 came into force on the 23rd Octob-
¶ Repealed except in the Scheduled Areas.

PART V—*cont.*

Unrepealed Madras Acts—cont.

Year.	Number.	Short title.	Repeals and amendments.	Page.
(1)	(2)	(3)	(4)	(5)
1904	II	The Madras Impartible Estates Act, 1904.	Amended, Madras Acts VI of 1909, III of 1934 * and XII of 1934, *See* Madras Acts II of 1918, VII of 1926, V of 1928, VIII of 1929, IX of 1929, IX of 1930, I, II and IX of 1933 and XXVI of 1948.	617–624
1905	II	The Madras Port Trust Act, 1905.	Amended, Madras Acts II of 1915, II of 1919, IV of 1923 and VII of 1929, Central Acts, XVIII of 1941†; XXXVI of 1948 and XXXV of 1951.‡ Repealed in part, Madras Act IV of 1919.	625–671
	III	The Madras Land Encroachment Act, 1905.	Amended, Madras Acts VIII of 1914, s. 2 and V of 1936, R. 5 and Madras Act XXIX of 1950.	673–679
1907	III	The Madras City Police (Amendment) Act, 1907.	Amended, Madras Act XX of 1936.	679–680
1908	I	The Madras Estates Land Act, 1908.	Amended, Madras Acts IV of 1909, VIII of 1934§, I of 1936, VI of 1936, R. 5, XVIII of 1936 ‖ XII of 1938, R. 5, XIII of 1938, ¶ XXVI of 1942, I of 1944, II of 1945, XIV of 1945 and XIV of 1951.	681–788
1909	IV	The Madras Estates Land (Amendment) Act, 1909.	Repealed in part, Madras Act VI of 1937.	Not printed.
	VI	The Arni Jagir Act, 1909.	....	788
1911	IV	The Limited Proprietors Act, 1911.	Amended, Madras Act XIV of 1951.	789–792
	** V	The Madras Hackney Carriage Act, 1911.	Amended, Madras Acts *III of 1924* ††; I of 1941, XVII of 1947, XXXIII of 1949, IX of 1951 and XIV of 1951, *See* Madras Act VIII of 1948.	792–806
1913	II	The Madras Irrigation Cess (Amendment) Act, 1913.	Amended, Madras Acts, II of 1916 ‡‡; VI of 1920.	Not printed.

* Came into force on 1st October 1934.
† Not yet come into force.
‡ Came into force on 15th July 1951.
§ Sections 2 to 126 and the Schedule were repealed by Madras Act XIII of 1938.
‖ Repealed in part by Madras Act XIV of 1951.
¶ Lapsed—*See* Madras Act V of 1948.
** Extended to certain parts of the State by notifications issued from time to time.
†† Repealed by Madras Act XIII of 1938.
‡‡ Repealed in part by Madras Act VI of 1937.

PART V—*cont.*

Unrepealed Madras Acts—cont.

Year.	Number.	Short title.	Repeals and amendments.	Page.
(1)	(2)	(3)	(4)	(5)
1914	I	The Hindu Transfers and Bequests Act, 1914.	Amended, XXI of 1929 and XIV of 1951.	806–807
	II	The Madras Land Revenue Assessment (Amendment) Act, 1914.	....	808
	III	* The Madras Proprietary Estates Village Service (Amendment) Act, 1914.	....	809
	IV	The Madras Medical Registration Act, 1914.	Amended, Madras Acts *X* and † *XIV of 1929* ‡, *IX of 1932* ‡; *XXI of* 1935 ‡; XVI of 1938, R. 5, XXI of 1941; IV of 1943; and § XI of 1945.	810–819
	VII	The Madras Deputy Collectors Act, 1914.	....	820
	VIII	‖ The Madras Decentralization Act, 1914.	Repealed in part, Madras Acts V of 1920 and XIV of 1920.	820–821
1915	II	The Madras Port Trust (Amendment) Act, 1915.	....	Not printed.
	I	The Madras Outports Landing and Shipping Fees (Amendment) Act, 1915.	....	Not printed.
1916	V	The Madras City Civil Court and Presidency Small Cause Courts (Amendment) Act, 1916.	....	821–822
1917	I	The Agency Tracts Interest and Land Transfer Act, 1917.	....	822–824
1918	I	The Mappilla Succession Act, 1918.	....	825
	II	The Doddappanayakkanur and Vuyyuru Impartible Estates Act, 1918.	....	826
	¶ III	The Madras Prevention of Adulteration Act, 1918.	Amended, Madras Acts‡ *II of 1928*†; *III of 1932*‡; *XXI of 1935*‡; IV of 1939, R. 5.	827–841

* Sections 3 to 7 and 9 to 14 repealed by Madras Act XIII of 1938.
†Repealed in part by Madras Act VI of 1937.
‡ Repealed by Madras Act XIII of 1938.
§ Repealed by Madras Act VII of 1948.
‖ So much of the Schedule as has not been repealed with the exception of the entries in the Schedule relating to Madras Acts III of 1885 and IV of 1889 were repealed by Madras Act XIII of 1938.
¶ Extended to certain areas by notifications issued from time to time.

THE MADRAS CODE

VOLUME I

PART I.

UNREPEALED REGULATIONS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

MADRAS REGULATION III OF 1802.[1]

[THE MADRAS ADMINISTRATION OF ESTATES REGULATION, 1802.]

[*1st January 1802.*]

A Regulation for receiving, trying and deciding suits or complaints declared cognizable in the Courts of Adàlat established in the several Zilas immediately subject to the Presidency of Fort St. George.

THE following rules are enacted for receiving, trying and deciding suits or complaints declared cognizable in the Courts of Adàlat established in the several Zilas.

2 to 6. [*Parties to suits: contents of complaints: procedure in suits.*] *Rep., Central Act X of* 1861.

7. [*Provisions regarding attendance of witnesses, depositions and exhibits.*] *Rep., Central Acts X of* 1861 *and III of* 1873.

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[1] Short title, "The Madras Administration of Estates Regulation, 1802" —*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

Section 1 and the unrepealed part of s. 16 of this Regulation were declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874)—s. 4 and the Second Schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the Sixth Schedule to that Act. S. 1 and the unrepealed part of s. 16 have been declared by notification under s. 3 of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Rampa country—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid.*, p. 723.

The same portions of the Regulation have been extended, by notification under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid.*, p. 722. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Muttas of Dutcharti and Guditeru of the Godavari Agency —*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The same portions of the Regulation are in force in the Nugur taluk of the East Godavari district in virtue of s. 2 (1) of Regulation I of 1909.

8. [*Commitment of witnesses for perjury.*] *Rep., Central Act XVII of* 1862.

9 & 10. [*Judgment and execution of decree: judgment-debtor's subsistence-money.*] *Rep., Central Act X of* 1861.

11. [*Certain decrees to be transmitted to Collector of Zila and Board of Revenue.*] *Rep., Central Act XII of* 1876.

12 to 15. [*Procedure on default of plaintiff or defendant to appear or plead: service of processes.*] *Rep., Central Act X of* 1861.

16. [*First clause.—Laws applicable to certain classes of suits.*] *Rep., Central Act III of* 1873.

Executors to Muhammadans and others whose heirs are not disqualified landholders to take charge of assets and execute trust. Courts not to interfere, except on regular complaint. Procedure on such complaint.

[1] *Second.*—In all cases of a Mussulman, or other person subject to the jurisdiction of the Zila Courts, having at his death left a will, and appointed an executor or executors to carry the same into effect, and in which the heir to the deceased may not be a disqualified landholder subject to the superintendence of the Court of Wards, the executors so appointed are to take charge of the estate of the deceased, and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country, without any application to * * * * * *[2] any * * [2] office of Government for his sanction: and the Courts of Justice are prohibited to interfere in such cases, except on a regular complaint against the executors for a breach of trust, or otherwise, when they are to take cognizance of such complaint, in common with all others of a civil nature, [2] * * * * * *[3] with respect to which the Judge is to be guided by the law of the parties, * * * * * *.[3]

Heirs of intestate or their guardians when not required to apply to Courts for permission to take possession.

Third.—In case of a Hindu, Mussulman or other person subject to the jurisdiction of the Zila Courts dying intestate,[4] but leaving a son or other heir, who by the laws of the country may be entitled to succeed to the whole estate of the deceased, such heir, if of age, and competent to take the possession and management of the estate, or if under age or incompetent, and

[1] This clause, so far as it applies to Hindus, was repealed by Mad. Reg. V of 1829, s. 2, while so much of it as applies to law-officers has been repealed by Mad. Act V of 1867.

[2] The words "the Judge of the Court of Adálat, or," the word "other" and the words "under the general rule contained in section V, Regulation II, 1802, and proceed thereupon according to the Regulations," were repealed by Central Act XII of 1876.

[3] The words "taking the opinion of their law-officers upon any legal exception to the executors, as well as upon the provision to be made for the administration of the estate, in the event of the appointed executor being set aside, and generally upon all points of law that may occur," and the words and figures "as expounded by his law-officers, subject to any modifications enacted by the Governor in Council in the form prescribed by Regulation I, 1802," were repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901), s. 3 (2) and the Third Schedule.

[4] As to extended application of this clause and also of the succeeding clauses, *see* Mad. Reg. V of 1829, s. 3.

not under the superintendence of the Court of Wards, his guardian or nearest of kin, who by special appointment, or by the law and usage of the country, may be authorized to act for him, is not required to apply to the Courts of Justice for permission to take possession of the estate of the deceased, as far as the same can be done without violence; and the Courts of Justice are restricted from interference in such cases, except a regular complaint be preferred, * * * .[1]

More heirs than one to intestate's estate may appoint common manager and take possession. When right of succession is disputed, security to be taken from party in possession. Failing such security, claimants giving it to be placed in possession.

Fourth.—If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the Courts of Justice are restricted from interference, without a regular complaint, as in the case of a single heir; but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the Judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession, for his or their compliance with the judgment that may be passed in the suit; or, in default of such security being given, within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants, who may be able to give such security; declaring, at the same time, that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs who may, on investigation, be found entitled to succeed thereto.

When Judge may appoint administrator to manage intestate's estate.

Administration when to cease.

Fifth.—In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding clause, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiciton such estate may be situated (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or, in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any enquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

[1] The words "when they are to proceed thereupon according to the general regulations" were repealed by Central Act XII of 1876.

Security to be taken from administrators appointed under this section. How their allowance is to be fixed.

Sixth.—In all instances of an administrator being appointed under this section, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust, in a sum proportionate to the extent thereof; and the Judge appointing him is authorized to fix for him (subject to the approbation of the Court of Sadar Adálat, to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon after deducting the expenses of management.

Procedure in cases of persons dying intestate, leaving unclaimed personal property.

Seventh.—The Judges of the Zila Courts, on receiving information that any person within their respective jurisdictions has died intestate, leaving personal property, and that there is no claimant to such property, are to adopt such measures as may be necessary for the temporary care of the property, and to issue an advertisement, in the current language of the country, requiring the heir of the deceased, or any person entitled to receive charge of his effects, to attend for this purpose; such advertisement to be published on the spot where the property was found, at the Adálat, kachari of the zila and, if ascertainable, at the dwelling-place of the deceased. . . .[1] after which, should any person attend, and satisfy the Judge of his title to the property, or to receive charge thereof as executor, administrator or otherwise the same is to be delivered up to him, on repayment of any necessary expense incurred in the care of it.

Should no claim be preferred within the twelve months next ensuing, an inventory of the property, and report of the circumstances of the case, is to be transmitted to the [2][State Government] for [3][their] orders.

17 to 20. [*Rules as to reference of questions of fact and law : local investigations of amins : costs payable by plaintiff : order of trial of suits and cause-list.*] *Rep., Central Act X of* 1861.

21. [*Language and character of processes, and payment of peons.*] *Rep., Central Act XVI of* 1874.

22 to 26. [*Power of Court to fine for certain contempts of authority : procedure in cases when land proprietors, Government farmers or other persons resist processes.*] *Rep., Mad. Act II of* 1869.

27 to 29. [*Contents of decrees of Court : form of security bond for attendance of defendants.*] *Rep., Central Act X of* 1861.

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[1] The words "or, if the deceased were an European, in the Madras Gazette," were repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901), s. 3 (2) and the Third Schedule.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This word was substituted for the word "his" by the Adaptation Order of 1937.

MADRAS REGULATION XIX OF 1802.[1]

[THE INDIAN CIVIL SERVICE (MADRAS) LOANS PROHIBITION REGULATION, 1802.]

[*1st January 1802.*]

A Regulation for prohibiting Covenanted Civil Servants of [2][the Government] employed in the administration of justice or the collection of the public revenue, lending money to Zamindars, independent Taluqdars or other actual Proprietors of land or dependent Taluqdars or Farmers of land, holding farms immediately of Government, or the Under-farmers or Raiyats of the several descriptions of Proprietors and Farmers of land above-mentioned, or their respective sureties . . . . .[3]

[*Preamble.*] *Rep. by Mad. Act II of* 1869.

[4]**2.** The Judges and Magistrates of the Zila Courts. . . [5]or other officers, being covenanted servants of [2][the Government], and the Collectors of the revenue and their assistants, are prohibited lending money, directly or indirectly, to any proprietor or farmer of land, dependent taluqdar, or under-farmer, or raiyat, or their sureties ; and all such loans as have been made in opposition to the repeated prohibitions of Government, or which may be hereafter made, are declared not recoverable in any Court of Judicature.

Covenanted servants, etc., forbidden to lend money to proprietors or farmers of land, etc.

3 to 6. [*Restrictions on holding of lands by Europeans.*] *Rep., Mad. Act II of* 1869.

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[1] Short title, "The Indian Civil Service (Madras) Loans Prohibition Regulation, 1802"—*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901). The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Regulation has been declared by a notification under s. 3, cl. (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

[2] The words "the Crown" were substituted for the words "the Company" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[3] The remaining portion of the title, which had become obsolete, was repealed by Central Act XI of 1901, s. 3 (2) and the Third Schedule.

[4] This section was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874)—s. 4 and the Second Schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the Sixth Schedule to that Act.

It has further been declared, under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Scheduled Districts of Ganjam and Vizagapatam—*see* Notification No. 285, *Fort St. George Gazette*, 1898, Pt. I, p. 666.

[5] Words relating to Registrars and their Assistants, and to Judges of Provincial Courts of Appeal and Courts of Circuit were repealed by Mad. Act II of 1869.

MADRAS REGULATION XXV OF 1802.[1]

[THE MADRAS PERMANENT SETTLEMENT REGULATION, 1802.]

[*13th July 1802.*]

[2]A Regulation for declaring the proprietary right of lands to be vested in individual persons, and for defining the rights of such persons, under a permanent Assessment of the Land-revenue in the [3][ ] territories subject to the Presidency of Fort St. George.

WHEREAS it is known to the zamindárs, mirásidárs, raiyats and cultivators of land in the territories subject to the Government of Fort St. George, that from the earliest until the present period of time the public assessment of the land-revenue has never been fixed; but that, according to the practice of Asiatic Governments, the assessment of the land-revenue has fluctuated without any fixed principles for the determination of the amount, and without any security to the zamindárs or other persons for the continuance of a moderate land-tax; that, on the contrary, frequent inquiries have been instituted by the ruling Power, whether Hindu or Muhammadan, for the purpose of augmenting the assessment of the land-revenue; that it has been customary to regulate such augmentations by the inquiries and opinions of the local officers appointed by the ruling Power for the time being; and that in the attainment of an increased revenue on such foundations, it has been usual for the Government to deprive the zamindárs, and to appoint persons on its own behalf to the management of the zamindáris, thereby reserving to the ruling Power the implied right and the actual exercise of the

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[1] Short title, "The Madras Permanent Settlement Regulation, 1802"—*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws (Local Extent) Act, 1874 (Central Act XV of 1874)—s. 4 and the Second Schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the Sixth Schedule to that Act.

It has further been declared to be in force in the Scheduled Districts of Ganjam and Vizagapatam, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874)—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette*, 1898, Pt. I, p. 666. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godávari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Regulation has been declared by a notification under s. 3, cl. (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

This Regulation will cease to be in force in estates notified under the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948)—*See* s. 3 of that Act.

[2] *See* Mad. Reg. IV of 1822, s. 2.

[3] The word "British" was omitted by the Adaptation Order of 1950.

proprietary possession of all lands whatever ; and whereas it is obvious to the said zamindárs, mirásidárs, raiyats and cultivators of land that such a mode of administration must be injurious to the permanent prosperity of the country by obstructing the progress of agriculture, population and wealth, and destructive of the comfort of individual persons by diminishing the security of personal freedom and of private property ; wherefore, the [1][ ] Government, impressed with a deep sense of the injuries arising to the State and to its subjects from the operation of such principles, has resolved to remove from its administration so fruitful a source of uncertainty and disquietude, to grant to zamíndárs and other landholders, their heirs and successors, a permanent property in their land in all time to come, and to fix for ever a moderate assessment of public revenue on such lands, the amount of which shall never be liable to be increased under any circumstances.

Assessment on all lands liable to revenue. Proprietary right vested in zamindars.

2. In conformity to these principles, an assessment shall be fixed on all lands liable to pay revenue to the Government ; and, in consequence of such assessment, the proprietary right of the soil shall become vested in the zamíndárs or other proprietors of land, and in their heirs and lawful successors for ever.

Instruments to be granted to zamindars. Corresponding kabuliyats.

3. Where the conditions of the permanent assessment of the revenue may have been adjusted, a sanad-i-milkiyat-i-istimrar, or deed of permanent property, shall be granted on the part of the [1][ ] Government to all persons being, or constituted to be zamindárs or proprietors of land ; and each zamindár or proprietor of land shall execute and deliver to the Collector of the district a corresponding kabúliyat.

The said sanad and kabúliyat shall contain the conditions and articles of tenure by which the lands shall be held.

Cases of disputed assessment.

In all cases of disputed assessment reference shall be had to the sanads and kabúliyats, and judgment shall be given by the Courts of Judicature in conformity to the conditions under which the agreement may have been formed in each particular case.

Articles of revenue which Government reserves right of abolishing or continuing. Land-tax to be permanently fixed exclusive of these articles.

4. The Government having reserved to itself the entire exercise of its discretion in continuing or abolishing, temporarily or permanently, the articles of revenue included, according to the custom and practice of the country, under the several heads of salt and saltpetre—of the sayar, or duties by sea or land—of the àbkàri, or tax on the sale of spirituous liquors and intoxicating drugs—of the excise on articles of consumption—of all taxes personal and professional, as well as those derived from markets, fairs or bazars—of lakhiraj lands (or lands exempt from the payment of public revenue), and of all other lands paying only favourable quit-rents—the

[1] The word " British " was omitted by the Adaptation Order of 1950.

permanent assessment of the land-tax shall be made exclusively of the said articles now recited.

Police expenses to be borne by Government. Lands appropriated to this purpose to be resumed.

5. The Government having charged itself generally with the maintenance and support of such establishments as may be requisite in the several provinces, cities and towns for the better keeping of the police, no lands shall be considered, as heretofore, to be holden on the condition of performing police duties, unless the same shall be specially provided for in the sanad-i-milkiyat-i-istimrar : and all lands or rasms heretofore appointed to the support of police establishments shall be disposed of in such manner as the [1][State Government] may think fit.

Amount of assessment to be regularly paid. No remission of revenue to be allowed. Landholder's property answerable for consequences of failure.

6. The landholders shall regularly pay in all seasons, in the current coin [2][ ], the amount of the permanent assessment fixed on their lands ; the remission of revenue which has occasionally been granted according to the custom of the country on account of drought, inundation or other calamity of the season shall cease and never be revived ; and where landholders may fail to discharge their pecuniary engagements their property shall be answerable for the consequence of such failure.

Their personal property to be attached in the first instance.

7. Where such failure may occur, the personal property of landholders shall in the first instance be attached, and ultimately their lands shall be liable to be sold and transferred from them for ever, if necessary, for the payment of the public revenue.[3]

Proprietors of land may transfer proprietary right in whole or part of their zamíndáris. Restrictions under which such transfer is to be made.

8. Proprietors of land shall be at free liberty to transfer without the previous consent of the Government, or of any other authority, to whomever they may think proper, by sale, gift or otherwise, their proprietary right in the whole or in any part of their zamíndárís ; such transfers of land shall be valid and shall be respected by the Courts of Judicature and by the [4][officers of the Government] ; provided they shall not be repugnant to the Muhammadan or to the Hindu laws, or to the regulations of the [5][ ] Government. But unless such sale, gift or transfer shall have been regularly registered at the office of the Collector, and unless the public assessment shall have been previously determined and fixed on such separated portions of land by the Collector, such sale, gift or

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[1] The words "Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "of their respective provinces" were omitted by the Adaptation Order of 1950.

[3] The estates of minors are exempted from sale for arrears of revenue by Mad. Reg. X of 1831, s. 2, cl. 1.

[4] The words "officers of the Crown" were substituted for the words "officers of the Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[5] The word "British" was omitted by the Adaptation Order of 1950.

transfer shall be of no legal force or effect, nor shall such transaction exempt a zamíndár from the payment of any part of the public land-tax assessed on the entire zamíndárí previously to such transfer, but the whole zamíndárí shall continue to be answerable for the total land-tax, in the same manner as if no such transaction had occurred.

Accounts to be furnished in forming part of zamindari into separate estate.

9. Where a part of a zamíndárí may be sold for the liquidation of arrear of the public assessment, or for the satisfaction of a decree of a Court of Judicature, or where part of a zamíndárí may be transferred by sale, gift or otherwise, the zamíndár or landholder shall furnish to the Collector true and correct accounts of the entire zamíndárí, and of the portion of the zamíndárí about to be separated, for a period of time not less than the three years preceding such sale or transfer, in order that the due proportion of the public revenue may be fixed thereon.

Principle regulating assessment on part to be separated.

The assessment to be fixed in this case on the separated lands shall always bear the same proportion to the actual value of the separated portion as the total permanent jamá on the zamíndárí bears to the actual value of the whole zamíndárí.

10. [*No separate estate to be created with a less jamà than* 500 *pagodas.*] *Rep., Mad. Act II of* 1869.

Number of karnams to be kept up : to be appointed by zamindars.

[1] **11.** The zamíndárs or landholders shall support the regular and established number of karnams in the several villages of their respective zamíndárís.

The karnams shall be appointed from time to time by the zamíndárs, and shall obey all legal orders issued by them ; but the karnams shall not be liable to be removed from their offices, except by the sentence of a Court of Judicature.

Procedure against karnams in cases of complaint.

Where a zamíndár, or his under-farmers, tenants or raiyats, may have cause of complaint against a karnam for breach of his duty, such zamíndár shall be free to institute a suit in the Adálat of the zila for the purpose of bringing such karnam to trial and punishment ; but, where a zamíndár may deprive a karnam of his office without such previous regular process, the zamìndár shall be liable to make such satisfaction for the injury as the Adálat of the zila may decree.

Appointment of successor to karnam dismissed from office.

Where a karnam may be dismissed from his office by the sentence of a Court of Judicature, the zamíndár shall in the first instance select a successor from the family of the last incumbent, provided any member of that family be found capable of performing the duty of karnam ; but where no member of the family may be capable of discharging the duty of karnam, in that case the zamíndár shall exercise his discretion

[1] This section ceases to be in force in estates where the Madras Proprietary Estates' Village-Service Act, 1894 (Mad. Act II of 1894), is extended to the office of village-accountant—*see* s. 3 of that Act.

in the appointment of a proper person. The name of the person appointed to suceed to the office of karnam shall be reported to the Collector of the zila by the zamíndár.

No part of an estate permanently assessed can be exempted from bearing its portion of public tax.

Lands allotted to religious purposes.

12. It shall not be competent to proprietors of land to appropriate any part of a landed estate permanently assessed to religious or charitable or to any other purposes by which it may be intended to exempt such lands from bearing their portion of the public tax ; nor shall it be competent to a proprietor of land to resume lands, or to fix a new assessment on lands which may be allotted (at the time when such proprietor may become possessed of the estate in which lands are situated) to religious or to charitable purposes under the denominations of Devasthan or Devadáyam, of Brahmádáyám or Agraháram, of Yaumiá, Jivadán or Madad Maásh, of Pirán, Fakirán, or any other description of exempted lands described under the general term of lakhiraj unless the consent of [1][the State Government] shall have been previously obtained for that purpose.

Where consent is obtained, assessment on such lands to be paid as fixed by Collector.

13. Where the consent of [1][the State Government] may have been obtained to a particular appropriation of the lands above described, the proprietor of the estate in which such lands are situated shall pay such assessment of revenue as may be fixed on the said lands by the Collector of the zila.

Zamindars to engage with raiyats, to grant pattas, and to give receipts for rents.

14. Zamíndárs or landholders shall enter into engagements with their raiyats for a rent, either in money or in kind, and shall, within a reasonable period of time, grant to each raiyat a patta or kaul, defining the amount to be paid by him, and explaining every condition of the engagement. And the said zamíndárs or landholders shall grant regular receipts to the raiyats for discharges in money or in kind made by the raiyats on account of the zamíndárs. Where a zamíndár after the expiration of a reasonable period of time from the execution of his kabúliyat may neglect or refuse to comply with the demand of his under-farmers or raiyats for the pattas or receipts above mentioned, such zamíndár shall be liable to be sued in the Adálat of the zila, and shall pay such damages as may be decreed by the Adálat to the complainant.

Zamindars refusing to give pattas or receipts, liable to be sued.

Zamindars to assist in keeping the peace.

15. Zamíndárs shall aid and assist the [2][officers of the Government] in apprehending and securing offenders of all descriptions, and they shall inquire and give notice to the Magistrates of robbers or other disturbers of the public peace who may be found, or who may seek refuge, in their zamíndáris.

[1] The words "Provincial Government" were substituted for the words "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "officers of the Crown" were substituted for the words "officers of Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of of 1950.

MADRAS REGULATION XXVI OF 1802.[1]

[THE MADRAS LAND REGISTRATION REGULATION, 1802.]

[*18th July 1802.*]

A Regulation for governing the [2][registration of landed estates paying revenue to the Government] in the [3][ ] Territories subject to the Presidency of Fort St. George.

* * * *[4]

WHEREAS it is expedient that public means should be established for the purpose of ascertaining the public revenue on [5][landed estates paying revenue to the Government] as well as for prescribing rules for the transfer of all lands ; wherefore the following rules have been passed for that purpose.

Collectors to keep registers of revenue-paying lands and of transfers of lands.

2. The Collectors of zilas shall keep public registers, according to the forms prescribed by the Board of Revenue, for the purpose of registering the landed property paying revenue to Government within their respective zilas and shall enter all transfers of land from one proprietor to another, which said registers shall be open at all times to the inspection of persons concerned in seeing them.

Unregistered transfers of land not valid.

3. Transfers of land made by individual persons, without being so registered in the registers of the Collectors, shall not be valid in Courts of Adálat ; and such transfers of land, being unregistered, shall not exempt the persons in whose names the

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[1] Short title, "The Madras Land Registration Regulation, 1802"—*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

Sections 1, 2 and 3 only of this Regulation were declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874)—s. 4 and the Second Schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the Sixth Schedule to that Act.

It has been declared, under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Scheduled District of Vizagapatam—*see Fort St. George Gazette*, 1898, Pt. I, p. 667, and *Gazette of India*, 1898, Pt. I, p. 871. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam taluk of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Regulation has been declared by a notification under s. 3, cl. (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Regulation is not in force in the Nugur taluk.

[2] These words were substituted for the words "sale and subdivision of Málguzárí lands" by the Repealing and Amending Act, 1901 (Central Act XI of 1901)—Second Schedule, Part I.

[3] The word "British" was omitted by the Adaptation Order of 1950.

[4] The first 3 lines of the preamble were repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901)—Second Schedule, Part I.

[5] These words were substituted for the words "such lands" by *ibid*.

entire estates are registered from paying the revenue due to Government from such lands.

4 to 21. [*Rules as to sale of lands paying Government revenue and assessment of land-revenue on divided lands : prohibition of purchase of lands by Europeans or by native officers or private servants of Collectors.*] *Rep., Mad. Act II of* 1864, *s.* 65.

MADRAS REGULATION XXIX OF 1802.[1]

[THE MADRAS KARNAMS REGULATION, 1802.]

[*13th July 1802.*]

A Regulation for establishing the Office of Karnam, and defining the Duties of the said Office, in the [2][ ] Territories subject to the Presidency of Fort St. George.

[3]* * * * The office of karnam being still of great importance to the preservation of the rights and property of the people, it is expedient to provide for the continuance of that office on an efficient establishment, for the purpose of facilitating the decision of suits in the Courts of Judicature, of preventing the diminution of the fixed

[1] Short title, "The Madras Karnams Regulation, 1802"—*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874)—s. 4 and the Second Schedule—to be in force in the whole of the Presidency of Madras except the territories mentioned in the Sixth Schedule to that Act. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam taluk and the Muttas of Dutacharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Regulation is not in force in the Nugur taluk. It was declared by s. 7, cl. 1, of Mad. Reg. II of 1806, that the provisions of ss. 1 to 10 and 13 to 16 of this Regulation should not extend to districts of which the revenue was not permanently settled, and rules for the duties of karnams in such districts were enacted in s. 7, cl. 2, of the Reg. of 1806, in addition to those prescribed by ss. 11, 12, 17 and 18 of Mad. Reg. XXIX of 1802. Further duties were assigned to karnams by Mad. Reg. XI of 1816.

Mad. Reg. XXIX of 1802 ceases to be in force in estates where the Madras Proprietary Estates' Village-service Act, 1894 (Mad. Act II of 1894), is extended to the office of village-accountant—*see* s. 3 of that Act.

On and after the commencement of Mad. Act III of 1895 (which, however, does not apply to Scheduled Districts), no portion of this Regulation shall continue to apply to any local area which is not a permanently settled proprietary estate—*see* s. 2 (1) of the Act.

[2] The word "British" was omitted by the Adaptation Order of 1950.

[3] The first portion of the preamble was repealed by Central Act XII of 1876.

revenue of the Government, and of securing individual persons from injustice, by enabling the public officers of Government and the Courts of Judicature to procure authentic information and accounts. In conformity, therefore, to the ancient usages of the country, the following rules have been enacted for the establishment of the office of Karnam.

Establishment of office of karnam.

2. An office of record, under a karnam, shall be established in each village of a district where the land-revenue may have been permanently assessed on the lands ; provided the revenues arising from such village, inclusively of charges, may amount to the annual sum of four hundred pagodas or upwards. But in villages where the annual revenue may be less than the said sum of four hundred pagodas, it shall be competent for one karnam to superintend and discharge the duties of the karnam's office in two or more villages.

Nomination to office.

3. The nomination of persons to the office of karnam shall be in the actual proprietors of land.

4. [*Appointment to office.*] *Rep. Central Act XII of* 1876.

[1][**5.** * * * *]

Vacancies how supplied.

6. Where vacancies may occur in the office of karnam, either by death or dismission, the landholder concerned shall report the event to the Collector, and shall within thirty days nominate a proper person to fill the vacancy, acquainting the Collector with the name of such person.

Office of karnam hereditary. Exception.

7. In filling vacancies in the office of the karnam the heirs of the preceding karnam shall be chosen by the landholders concerned, except in cases of incapacity, on proof of which before the Judge of the zila the said landholders shall be free to exercise their discretion in the nomination of persons to fill vacancies.

List of karnams and of villages under each.

8. Proprietors of land shall deposit in the Adálat of the zila, in the head kachari of the Collector, and in the principal kachari of each zamíndárí or estate authentic lists containing the names of the karnams on their respective estates, and the names of the villages of which the said karnams may have been appointed to keep the accounts.

Board of Revenue may reduce number of karnams.

9. It shall be competent for the Board of Revenue at the Presidency to authorize, through the channel of the Collectors, the proprietors of land to reduce the number of karnams in all cases where such reductions may appear to be advisable to the said Board.

Penalty for neglecting to appoint karnams.

10. Proprietors of land neglecting to appoint karnams shall be liable to fine for such neglect, at the discretion of the Adálat of the zila.

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[1] This section was omitted by the Adaptation Order of 1937.

Karnams to keep registers of lands in each village.

11. *First.*—Karnams duly appointed to their offices shall keep complete registers of the extent of the lands in each village, specifying the boundaries, and landmarks, and showing their appropriation: namely, arable, cultivated and uncultivated, pasture, occupied for houses, gardens, rivers, tanks, springs or wells, waste in hills, jungle or rocks.

Registers to specify lands exempt from payment of revenue by established usage;

Second.—The said registers shall specify the extent and description of land in each village exempt from paying revenue to Government at the time when the permanent assessment was fixed, the purposes to which the exempted lands are appropriated, and the names of the holders of such lands.

and lands exempt from payment of revenue by grants or sanads.

Third.—The said registers shall specify the lands in each village exempted by grants or sanads from paying revenue to Government, the purposes for which such lands were granted, the condition of the grant, and the names of the holders.

Karnams to report death of incumbents on such lands.

Fourth.—Karnams shall report to the proprietors of lands the death of all incumbents on lands exempted from the payment of revenue to Government.

Their duty as to crop.

Fifth.—Karnams shall be present at the estimation of the crop, at the beating out, and at the measuring of the grain.

Gross produce of all lands, with particulars as to its division, to be registered.

Sixth.—Karnams shall keep true accounts of the gross produce of all lands, whether paying revenue to Government or not; where the produce of such lands may be shared between the proprietors and the cultivators, karnams shall also enter in their registers the quantity of grain so divided, as well as the rates of division.

Amount of fees and méras paid in a village to be registered.

Seventh.—Karnams shall enter in their registers the rates and amount of all fees and méras[1] appropriated to the officers and servants of the villages, specifying whether such fees or méras are payable from the gross produce of the entire lands, from the proprietor's share or from the raiyat's share.

Karnams to keep registers of lands paying money-rent;

Eighth.—Where lands may be liable to pay money-rents, karnams shall keep registers of the extent of the land cultivated, and of the rates and amount of the money-rents.

to register lands cultivated in gardens;

Ninth.—Karnams shall keep registers of the land cultivated in gardens, and of the rates and amount of the division of the produce of such lands, when the produce may be divided in kind.

to register quit-rents and ready-money payments; and price current of grain;

Tenth.—Karnams shall keep registers of the quit-rent and ready-money payments collected in each village.

Eleventh.—Karnams shall keep monthly registers of the price of all kinds of grain.

[1] *Méra* means, according to Wilson, "a portion of the crop given as a perquisite to the holders of a proprietary right in the village lands or to the hereditary village-officers and servants, out of the common stock from the threshing-floor."

Twelfth.—Karnams shall keep registers of strangers passing or repassing as reported to him by the village-watcher, and such registers shall at all times be open to the inspection of the officers of police. and passengers reported by village-watcher.

Thirteenth.—Karnams shall keep the accounts which are to exhibit the actual revenue and charges of the village, and the records of their offices entire; and shall not carry such accounts or records out of their respective villages, unless required to do so by competent authority. Karnams secreting the accounts or records of their offices, or transporting them beyond their respective villages, except by due authority, shall be liable to fine and imprisonment until the accounts and records may be produced; but proprietors or farmers of lands shall at all times have free access to the accounts and records, with power to take copies of them. Rules for keeping entire accounts and records of office of karnam.

12. Karnams shall produce, whenever required by the proprietor or farmer of the lands, by the Collector or by the Adálat of the zila, the records and accounts relating to the lands, produce, revenue and charges of their villages respectively. Karnams to produce records when required by proprietor, Collector or Adálat.

13. Collectors shall not demand from karnams their accounts or records for any other purpose than that of assessing the public revenue upon the portions of estates which it may be necessary to divide, in consequence of attachment for arrears of revenue, or in pursuance of a decree of a Court of Judicature, or for the accommodation of the joint proprietors of lands; provided that this section shall not be construed to preclude Collectors or other public officers from demanding from karnams the information required for the due administration of the revenues of such lands as may escheat to [1][the Government] or remain khás after attachment for arrears of revenue. When Collectors or other public officers may demand karnams' accounts or records.

14. On complaints by the proprietors of land, the Adálats of the several zilas shall have authority to make orders to prohibit the Collectors respectively from demanding the attendance of the karnams, the accounts or information; and to levy fines from such Collectors for persisting to demand their attendance, accounts or information for any other purposes than those authorized by this Regulation. Power to prohibit Collectors, in certain cases, from making such demands.

15. Where Collectors or Courts of Judicature may have occasion to require the attendance of a karnam, a notice shall be delivered to the said karnam specifying the time and place of attendance, the nature of the accounts required and the persons before whom such accounts shall be examined. Forms to be observed in requiring attendance of karnams.

[1] The words "the Crown" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

Punishment for refusal or wilful delay on part of karnams.

16. Where karnams may refuse to comply, or may unreasonably delay to comply, with such notice duly communicated, it shall be competent for the Adálat to punish such karnams by fine or imprisonment until the accounts or information required be produced.

Karnams compellable to swear to accounts.

17. Karnams shall be compellable to swear to the truth of such accounts or information as they may furnish before a Court of Judicature; and it shall be competent for the Court to grant a commission for the purpose of receiving the depositions of such karnams as it may be necessary to examine at a distance from the Court; provided that the said commission shall contain the name of each karnam to be examined on oath.

Penalty for furnishing false accounts.

18. Where karnams may deliver false or fabricated or mutilated accounts or information, after having been duly sworn, the Judge of the Adálat shall commit such karnams to be tried for the crime of prejury * * *.[1]

Proprietors of land conniving thereat how punishable.

19. Proprietors of land or other persons associating themselves with karnams for the purpose of producing or procuring false or fabricated or mutilated accounts or information shall also be committed by the Judge of the Adálat for trial * * * [1] for subornation of perjury.

MADRAS REGULATION I OF 1803.[2]

[THE MADRAS BOARD OF REVENUE REGULATION, 1803.]

[*1st January 1803.*]

A Regulation for defining the Duties of the Board of Revenue, and for determining the Extent of the Powers vested in the Board of Revenue.

WHEREAS it has hitherto been usual for the Board of Revenue to exercise judicial authority in the determination

[1] The words "before the Court of Circuit" were repealed by Central Act XII of 1876.

[2] Short title, "The Madras Board of Revenue Regulation, 1803"—*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the Second Schedule, to be in force in the whole of the Presidency of Madras except the territories mentioned in the Sixth Schedule to that Act. The Regulation has been declared not to apply to the East Godavari Agency by notification under sub-section (2) of s. 52-A of the Government of India Act—*see Fort St. George Gazette*, 1930, Pt. I, p. 1392. As to arrears of revenue recoverable under Mad. Act II of 1864, this Regulation is inoperative—*see* s. 62 of that Act.

of certain cases of a civil nature appealed from the decision of the Collectors, who were entrusted with the administration of the revenues and the distribution of justice in their respective districts ; and whereas Courts of Judicature have been established for the purpose of administering justice in all cases, civil and criminal, it is expedient that the judicial authority heretofore exercised by the Board of Revenue should be formally abrogated in those districts where Zila Courts have been established ; and whereas it is important to the security of the persons and property of those for the protection of whom the said Courts have been established, that the powers and authorities entrusted to the said Board of Revenue in respect of the executive administration of the revenues, should be defined and published ; wherefore the following Regulations have been passed by the Governor in Council.

2 & 3. [*Oath to be taken by members of Board : consequences of violation thereof.*] *Rep., Central Act X of* 1873.

4. The duties of the Board of Revenue have been, and hereby are declared to be, the general superintendence of the revenues from whatever source they may arise, and the recommendation of such propositions to the [1] [State Government] as in their judgment may be calculated to augment or improve those revenues. Duties of Board of Revenue.

5. The Board of Revenue have had, and are hereby declared, to have authority to superintend and control all persons employed in the executive administration of the public revenue, all zamíndárs or proprietors of land paying revenue, and all farmers, securities, raiyats or other persons concerned in, or responsible for, any part of the revenue of Government, as far as the said superintendence and control may relate to the executive administration of the revenue under the regulations now enacted, or to be hereafter enacted. Superintendence and control of persons employed in executive administration of revenues.

6. The Board of Revenue shall assemble two days, at the least, in every week for the despatch of business. Meetings of Board.

7. [*Quorum.*] *Rep., Mad. Act I of* 1894, *s.* 1.

8. The Board of Revenue shall use, in the transaction of official business a circular seal two inches in diameter, bearing in the English [2] [Hindi and such other languages, if any, as may be specified by the State Government] this inscription : "The seal of the Board of Revenue" ; and no other seal shall be used by the Board of Revenue. Board to use official seal. Inscription thereof.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "and Persian languages" by the Adaptation Order of 1950.

Board's proceedings to be reported to the State Government as often as required.

9. The Board of Revenue shall annually (or as often as they may be required) lay before the [1] [State Government] a general report of their proceedings, to be drawn out summarily, and under the distinct heads of districts, with reference to the dates of the consultations in which each subject is contained, which subject shall be respectively continued in each successive report from the date of the report preceding.

Board to keep two sets of proceedings.

[2] [**10.** The Board of Revenue shall keep two separate sets of their proceedings, one set for the broken periods to accompany the general report above ordered and the second set to be kept in the office. The Board of Revenue shall prepare and annex a copious index for the second set.]

Acknowledgment of receipt of letters from the State Governmen

11. The Board of Revenue shall invariably acknowledge the receipt of all letters from the [1] [State Government], reciting in abstract the substance of the letters so acknowledged, and the steps they have taken in consequence.

Records to be preserved complete.

12. The Board of Revenue shall be careful to preserve their records complete, and shall transmit to the [1] [State Government], with the whole set of their proceedings, a list of all records, and of all papers not entered on the records.

Records not to be copied or removed from office.

13. The Members of the Board of Revenue shall not have copies of any part of the records, nor remove any of the records from the office of the Board of Revenue. Members of the Board of Revenue wishing to refer to the records shall cause such records to be brought into the meeting-room of the Board of Revenue, and shall peruse them there.

Reference to Government records.

14. When the Board of Revenue may have occasion to refer to the records of Government, they shall apply for such records to the [1] [State Government].

Papers in Indian languages to be accompanied with translations.

15. The Board of Revenue shall accompany all papers in [3] [the Indian languages] which they may transmit to Government with translations in English.

All propositions to be submitted through president.

16. All propositions or suggestions intended by individual members for the consideration of the Board shall be submitted through the channel of the president.

No new propositions discussed till previous question disposed of.

17. Where new propositions may arise during the consideration of a question, such propositions shall not be discussed until the previous question shall have been disposed of.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] This section was substituted for the original section by the Adaptation Order of 1950.

[3] These words were substituted for "the Native languages" by *ibid.*

Majority to decide.

18. Questions at the Board of Revenue shall be determined by a majority, and the resolutions of the majority shall be the resolution of the Board and shall be carried into execution accordingly.

Opinions of members how taken.

19. In deliberation, where questions may be put to the vote, the opinion of the junior member shall be first recorded, and then the opinions of the other members, according to their rank upwards.

President to have casting vote.

20. Where a difference of opinion may happen, and where votes may be equally divided, the president shall have the casting vote ; but the proceedings on any question shall, at the motion of any member, be referred to the [1][State Government].

Dissents from majority when recorded.

21. A member dissenting from the majority of the Board may record his dissent at the time, or at a future meeting ; but no minute shall be recorded on the proceedings of the day unless delivered in before the adjournment of the Board, nor shall any alteration be made in opinions once recorded without the consent of all the members of the Board.

Rule in referring matters for decision of the State Government.

22. The Board of Revenue shall accompany all references made to the [1][State Government], of their proceedings on matters requiring the decision of Government, with a letter stating summarily the nature of the subject submitted, and with distinct opinions and recommendations on each subject for the consideration and decision of the [1][State Government].

Power to entrust specific duties to particular members.

23. In cases where it may be necessary for the despatch of business, the Board of Revenue may commit the charge of any specific duty to a particular member, but in no other case shall the members individually exercise any authority.

Powers of president with respect to meetings.

24. The president of the Board of Revenue shall have authority to appoint and to change the days of meeting, to summon extra meetings of the members, and to postpone the regular meetings (provided, nevertheless, that two meetings be always held in one week), and to adjourn the Board at such hour as he may deem expedient.

Orders he may issue during intervals of meeting.

25. The president, during the intervals of the meetings of the Board, may issue, of his own authority, such occasional or subsidiary orders as shall, in his opinion, be necessary for carrying into execution any existing resolution of the Board ; to summon any person to attend the next meeting ; and to issue orders to prepare materials for the consideration of the Board.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Selection of business.

26. The president shall regulate and prescribe the selection and arrangement of the business to be brought before the Board at each meeting.

All resolutions proposed by president.

27. The president shall propose resolutions on all papers read for the consideration of the Board, and may state specific questions for the opinion of the members on the business before the Board.

His powers in cases of emergency.

28. The president shall have authority in all cases of emergency, while no Board may be sitting, to decide questions requiring an immediate decision, and to issue orders on all references requiring an immediate reply.

29. [*Provision for judicial investigations where there is no Zila Court.*] *Rep., Mad. Reg. II of* 1806.

May have copies of any records, or records themselves.

30. The president shall have authority to require copies of any records, or to have the records themselves, sent to him, for his perusal.

President may call on Collectors for accounts.

31. The president shall have authority to call on Collectors or Assistant Collectors for papers, accounts, or for any information he may require on the revenues of the district under such Collector or Assistant Collector.

Senior member to preside in absence of president.

32. Whatever authority is hereby declared to be vested in the president shall be vested in the acting president for the time being; and in case of the absence of the president the senior member present shall preside, and shall be vested with all the powers of the president.

Board responsible for discharge of duties of subordinate officers.

33. The Board of Revenue shall be responsible that the executive officers employed under them discharge the duties of their respective stations with assiduity, and shall require them to pay a ready and implicit obedience to all orders and regulations, and shall punish neglect in the subordinate officers of revenue, at their discretion, according to the powers vested in them for that purpose.

34. [*Board authorized to summon Collectors, etc., to the Presidency, and to fine them.*] *Rep., Mad. Reg. V of* 1828, *s.* 4.

Settlement of revenues when made.

35. The Board of Revenue shall be careful that the settlement of the revenues shall be made at as early a period of time after the commencement of the fasli year as may be practicable, and shall report any delay in the completion of the settlement in the subordinate officers under them to the [1] [State Government].

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Settlements to be submitted to the State Government, and not to be valid till confirmed.

36. The Board of Revenue shall submit, as soon as may be practicable to the consideration of the [1][State Government], all settlements of the public revenue, in cases where the revenue may not have been permanently fixed ; and such settlements shall not be considered to be valid until confirmed by the authority of the [1][State Government].

Board to ascertain grounds of temporary settlements to prevent detriment to revenue through negligence ; to guard against excess of zeal;

37. In districts where the revenue has not been permanently fixed, it shall be the duty of the Board of Revenue to investigate and ascertain the grounds of the temporary settlements effected by the Collectors, to compare the resources of the provinces with the revenue derived from them ; to prevent by early and constant vigilance, the impairment of the public revenue through the negligence or ignorance of the inferior officers ; and to guard against encroachments on the rights of the people, or on the permanent sources of prosperity, which may ensue from an excess of zeal on the part of the Revenue officers.

to be careful that revenues are realized.

38. The Board of Revenue shall be careful that the revenues are realized according to the stipulated periods of payments.

39. [*Board to investigate charges against Collectors and their officers, where no Zila Court exists.*] *Rep., Mad. Reg. II of 1806.*

[2][**40.** * * * *]

41. [*Farming of lands to, and taking of security from, Europeans prohibited.*] *Rep., Mad. Act II of* 1869.

Board not to make or to confirm grants of land;

42. The Board of Revenue shall not grant or confirm grants or shrotriyams maqtas, fixed rents, inam or free-gift lands, or confirm the succession of persons to such lands, without the authority of the [1][State Government].

43. [*The Board not to continue pensions without authority.*] *Rep., Central Act XXIII of* 1871.

44 to 47. [*Judicial powers of Board of Revenue in districts where no Zila Courts were established.*] *Rep., Mad. Reg. II of* 1806.

Rules to be observed by Board on death, etc., of Collectors.

48. The Board of Revenue shall provide that on the death, resignation or removal of Collectors care be taken of the public money and records by the successors to such Collectors, or by their Assistants. The Board of Revenue shall not permit persons resigning or removed from their station to depart until notification of their having delivered over charge of such money and records to their successors shall have been received.

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] This section was omitted by the Adaptation Order of 1937.

Procedure where deputation of member, or any other person, may be necessary.

49. Where the Board of Revenue may consider the deputation of a member of their Board, or of any other person, necessary for purposes connected with the administration of the revenue, they shall report such necessity to the [1] [State Government], and wait the orders of the [1] [State Government] previously to deputation.

Deputation of Assistant Collector on service within limits of his collectorship.

50. The Board of Revenue shall nevertheless have authority to order Assistant Collectors to be deputed on any service they may deem expedient, within the limits of the collectorship to which such Assistant Collector may be attached, but shall not depute such assistants into districts to which they are not attached without the previous authority of the [1] [State Government].

Disbursements for takkávi.

51. The Board of Revenue shall recommend to the [1] [State Government] disbursements of money for takkávi, for repairs, or for improvements in agriculture, where they shall be of opinion that the disbursement of such money will be beneficial to the public revenue.

Board to require economy and production of vouchers.

52. The Board of Revenue shall require in the executive officers under their authority an attention to the principles of economy in the disbursement of the public money, and shall require the production of authentic and satisfactory vouchers for all disbursements made in repairs and in improvements.

Applications for increase of expense to be explained.

53. The Board of Revenue shall require satisfactory reasons and explanations in support of any increase of expense applied for previously to referring such increase for sanction to the [1] [State Government], and shall at all times submit their opinions on the amount of the increase of disbursements required to be made.

Mua'in-zabitas to be annually revised by Board, and not to be confirmed without authority.

54. The Board of Revenue shall annually revise the mua'in-zabitas of the Collectors, and shall submit such mua'in-zabitas for the confirmation of the [1] [State Government]. It shall not be competent for the Board of Revenue to confirm the establishments of Collectors without authority from the [1] [State Government] being first had and obtained.

Procedure where remissions may be necessary.

55. Where the Board of Revenue may consider a remission of the amount of an existing settlement to be requisite, or a remission of balances to be conducive to the public good, they shall submit the circumstances of the case, and the amount of the remission, to the consideration of the [1] [State Government].

Power to suspend rigorous collection of revenue.

56. The Board of Revenue shall suspend the rigorous collection of the revenues according to the stipulated periods where satisfactory evidence of the necessity of a temporary

[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

suspension may be stated to them ; but the Board of Revenue shall not extend the period of such suspension beyond the current fasli without the previous authority of the [1][State Government].

Attachment and sale of lands for arrears when arrear of revenue accrues.

57. The Board of Revenue shall direct Collectors of districts, where a permanent settlement of the land-revenue may have been concluded, to attach the lands of proprietors who may have fallen in arrear, and shall require Collectors to dispose of the whole, or a part, of such lands, as the case may be, for the recovery of such arrear, in the mode and manner prescribed in the regulations.

58. [*Time when lands may be sold in satisfaction of decrees for arrears.*] *Rep., Mad. Reg. III of* 1830, *s.* 3.

MADRAS REGULATION II OF 1803.[2]

[THE MADRAS COLLECTORS REGULATION, 1803.]

[*1st January 1803.*]

A Regulation for describing and determining the conduct to be observed by Collectors in certain cases.

WHEREAS under the system of internal government established for the administration of the public revenue, and for the security of persons and property, individuals should have the means of ascertaining and knowing the regulations passed for their benefit ; and whereas the said system further requires that the power and authority heretofore vested in the immediate Collectors of the revenue should be curtailed ; wherefore the following Regulation has been passed for the purpose of defining the authority committed to Collectors, and for describing the modes of procedure required in the discharge of their duty.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] Short title, "The Madras Collectors Regulation, 1803"—*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the Second Schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the Sixth Schedule to that Act. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks and the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. As to arrears of revenue recoverable under Mad. Act II of 1864, this Regulation is inoperative—*see* s. 62 of that Act.

Collection of revenues entrusted to covenanted civil servants.

2. The collection of the public revenue derived from land-tax, [1] * * * * from the excise on spirituous liquors or for other articles of taxation shall be entrusted to Collectors, who shall be covenanted civil servants [2] [of the Government].

3 & 4. [*Oath to be taken by Collectors : consequences of violation thereof.*] *Rep., Central Act XII of* 1873.

Collectors to be under orders of Board of Revenue.

5. Collectors shall be under the immediate control of the Board of Revenue, and shall obey all orders communicated to them by the authority of that Board.

Papers and accounts to be furnished to all persons authorized to require them.

6. Collectors shall furnish such papers or accounts relating to the revenues under their charge as may be required by the Board of Revenue, the President of the Board of Revenue, by the Accountant-General, or by any other public officer authorized to make such requisition.

All acts of Collectors to be public.

7. All acts and proceedings of Collectors shall be held and done publicly ; that is to say, in open kacharis accessible to all persons.

Principles on which revenues are to be administered.

8. Collectors shall administer the public revenues to the advantage of the State, the happiness of the people, and the prosperity of the country ; and shall suggest such propositions to the Board of Revenue as, in their judgment, may be calculated to augment and improve those revenues.

Collectors to have control over all persons employed under them, and over persons paying revenue or otherwise concerned in revenue.

9. Collectors have had, and are hereby declared to have, authority to superintend and control, under the orders of the Board of Revenue, all persons employed in the executive administration of the public revenue, all zamíndárs or proprietors of land paying revenue, and all farmers, securities, raiyats or other persons concerned in, or responsible for, any part of the revenue to Government, as far as the said superintendence and control may relate to the executive administration of the revenue under the regulations now enacted, or to be hereafter enacted.

10. [*Seal of Collector.*] *Rep., Mad. Act VI of* 1865.

Collectors to transmit diaries to Board.

11. Collectors shall keep diaries of their proceedings in the English language. The diaries shall contain a record of every official transaction of the Collector, and shall be forwarded to the Board of Revenue for each month, on the fifteenth day of the succeeding month.

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[1] The words " from duties on commodities by sea and land, from salt " were omitted by the Adaptation Order of 1937.

[2] The words " of the Crown " were substituted for the words " of the Company " by the Adaptation Order of 1937 and the word " Government " was substituted for " Crown " by the Adaptation Order of 1950.

Public money, how to be kept.

12. Collectors shall keep the public money in a strong chest secured with two locks of different constructions: the key of one lock shall be kept by the Collector, and the key of the other lock shall remain in the possession of the public shroff.

Jamabandi and kistbandi of land-revenue, permanently assessed, to be furnished to Board.

An account of other items of revenue to be subjoined.

13. Collectors of revenue in districts where a permanent assessment of the lands may have been fixed shall transmit to the Board of Revenue, within one month after the expiration of each Faslí year, in a form to be approved by the Board of Revenue, a jamábandí and kistbandí statement of the permanent revenue assessed on each zamíndárí or estate into which the districts have been divided or subdivided by the operation of the Regulations, with an account subjoined of the amount of other items of revenue, whether rented or under the Collector's management; noting in the one case the amount of the rent, and in the other the expected amount of collections.

Collections of revenue to be made regularly.

14. Collectors shall be careful that proprietors of land on whose estates the land-revenue has been permanently fixed, and farmers of land, regularly discharge the taxes and rents agreeably to the kistbandí; and, in the event of a proprietor or farmer of land falling in arrear, Collectors shall proceed to recover such arrear in the mode prescribed by the Regulations already passed, or to be hereafter passed for that purpose.

Persons attaching estates to be furnished with written powers.

15. Collectors shall furnish the person or persons deputed by them to attach estates in pursuance of a decree of a Court of Judicature, or for an arrear of revenue, with sanads of appointment, and with written instructions under their seal and signature.

Apportionment of assessment on all lands to be sold or transferred.

16. Collectors shall apportion the assessment on lands which may be ordered to be disposed of by public sale for the discharge of arrears of revenue, or in pursuance of a decree of a Court of Judicature, or which may be transferred in the manner allowed by the Regulations, from one individual to another.

Collectors to be responsible for apportioning assessment on sub-divisions;

17. Collectors shall be held responsible for justly and equitably apportioning the permanent assessment on all sub-divisions of estates, and the amount of such assessment shall be regulated at a rate proportionate to the value which such sub-divisions of estates bear to the gross assets of the whole estates.

to furnish proprietors with amount so apportioned. Appeal therefrom to be forwarded to Board.

18. Collectors, at the time they transmit statements of the public assessment so apportioned on sub-divisions of estates for the consideration of the Board of Revenue, shall furnish the proprietors of the estates in question with the amount of the assessment so apportioned; and, where the proprietors may object and appeal from the assessment proposed by the Collectors for the sub-divisions of the said estate, Collectors shall immediately forward the same, with their remarks, to the Board of Revenue.

Conditions of sale to specify particular obligations not included in general conditions.

19. Collectors shall be careful to specify in the conditions of sale (exclusively of the general conditions of sale as prescribed by the Regulations) any particular obligation which may happen to fall on the purchaser of a sub-division of, or of an entire estate declared for sale.

Attachments of land to be reported to Board.

20. Collectors, on receipt of a decree of a Court of Judicature ordering land paying revenue to Government to be sold, shall proceed to attach a sufficient portion of the said lands to answer the amount of the decree, in such mode as may be prescribed for recovery of arrears of revenue by the Regulations, and shall immediately report such attachment to the Board of Revenue.

Rules to be observed in attaching portions of estates.

21. In attaching portions of estates for arrears of revenue, or in consequence of a decree of a Court of Judicature, Collectors shall be careful to form the sub-divisions compact, selecting such villages and lands as may be situated contiguously to each other. Collectors shall moreover have in view the nature of the soil and available resources of the different lands, and shall be careful to include, as nearly as may be practicable, equal portions of land with contracted means of improvement, and of lands with extensive means of improvement.

In forming sub-divisions, lands watered by one tank to be kept in same sub-division.

22. In forming sub-divisions of estates, Collectors shall be careful to preserve all the lands watered by one tank or watercourse in the same sub-division ; and, where it may be necessary to deviate from this rule, Collectors shall fully explain such necessity to the Board of Revenue, and wait the orders of the Board on their reference, previously to concluding the arrangement.

Registers of transfers of land.

23. Collectors shall keep registers of all sub-divisions of estates, and of all transfers of landed property, in a form to be submitted to, and to be approved by, the Board of Revenue.

Register of alienated lands.

24. Collectors shall keep, in a form to be approved by the Board of Revenue, registers of all alienated lands paying revenue to Government, or exempt from the payment of public revenue. The registers shall be kept in the mode and manner prescribed by the Regulations already passed, or to be passed, for that purpose.

25. [*Estates of disqualified landholders how managed.*] *Rep., Mad. Act I of 1902.*

Collection of revenue of khas lands.

26. Collectors shall collect the revenue arising from lands held khas in such manner as may be directed by the Board of Revenue.

27 to 29. [*Procedure for recovery of lands held under invalid titles.*] *Rep., Central Act XII of 1876.*

30. [*Lands for pensioners and invalids.*] *Rep., Central Act XXIII of 1871.*

Levy of assessment for payment of police.

31. Collectors shall collect the assessments that may be ordered to be levied for the payment of the department of police agreeably to the Regulations enacted for that purpose, or agreeably to the orders of the Board of Revenue, in cases where the said Board may have authority to issue such orders.

Collection of revenue, exclusive of land-tax.

32. Collectors shall collect the revenue arising from sayar, salt, spirituous liquors or from other sources, in the manner prescribed by the Regulations, or in such manner as may be directed by the Board of Revenue in cases subject to their authority.

Receipts for Payments of revenue.

33. Collectors shall grant receipts for all payments made into their treasury on account of the public revenue; which receipts shall specify the date of payment, the coin in which payment may be made, and the amount of such receipt shall be written in the English language and in the language of the zila, and shall be registered and numbered in both languages by the keepers of the records; the date of registry shall be indorsed on the back of each receipt.

Copy of register to be sent monthly to Board.

34. Collectors shall transmit, on the fifteenth of each month, to the Board of Revenue, copies of the register of receipts for the preceding month.

Officers employed under Collectors, in collection of revenue, to grant similar receipts.

35. Collectors shall compel the tahsíldárs, or other officers employed under them in the collection of the revenue, to grant receipts for moneys received by them, and to transmit monthly registers of the receipts so granted; the receipts granted by the tahsíldárs or other officers employed in the collection of money, shall contain all the items above specified.

Public servants not to be employed in private business.

36. [1] * * * * * Collectors shall employ none but the public registered servants in the conduct of public business, and Collectors shall not employ public registered servants in the transaction of private business.

[2] [**37.** * * *]

Where land-tax is not fixed, rates of assessment to be investigated.

38. In districts where the land-tax may not have been permanently fixed, Collectors shall investigate, with care and with attention, the rules which have immemorially guided the assessment of the public revenue.

Result to be reported to Board.

39. Collectors shall state the result of their investigation to the Board of Revenue, and shall regulate their demands on the raiyats on principles of moderation, and with a just regard to the rights of Government, to the rights of the people, and to the prosperity of the country.

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[1] The first portion of this section, containing obsolete matter, was repealed by Mad. Act II of 1869.

[2] This section was omitted by the Adaptation Order of 1937.

Rates of waram or of quit-rent not to be altered without permission.

40. Collectors, in districts where the rent may not have been permanently fixed, shall not increase or diminish the rates of wáram, or rates of quit-rent, without permission being first had and obtained from the Board of Revenue for that purpose.

Unauthorized alienations of land to be reported to Board.

41. In districts where the land-tax may not have been permanently fixed, Collectors shall report to the Board of Revenue all unauthorized alienations of land, with every circumstance relating to such land; but Collectors shall not resume alienated lands without authority from the Board of Revenue.

42. [*Removal of proprietors.*] *Rep., Mad. Reg. II of* 1806.

Collectors not to grant kauls without authority;

43. Collectors shall not grant kauls of any description without authority from the Board of Revenue; and all kauls granted by Collectors shall contain the dates of the authority of that Board.

cannot authorize alienation of land.

44. Collectors shall not in any case authorize the alienation of land without authority from the Board of Revenue.

45 & 46. [*Requisition for Military.*] *Rep., Mad. Reg. II of* 1806.

47 to 55. [*Judicial powers of Collectors in districts where no Zila Courts were established.*] *Rep., Mad. Reg. II of* 1806.

56 to 58. [*Magisterial powers of Collectors in districts where no Zila Courts where established.*] *Rep., Mad. Reg. II of* 1806.

Collectors to make no advances without authority of Government.

59. Collectors shall not make disbursements of public money for advances for cultivation, or repairs of tanks, or for any other purposes, without having previously obtained, through the channel of the Board of Revenue, the authority of the [1] [State Government] for such disbursement.

Collectors and Assistants not to permit servants to be concerned in any rent or farm of revenue;

60. [2] * * * * * Collectors, or Assistants to Collectors, shall not permit their [3] [ ] servants to be concerned, directly or indirectly, in any rent or farm of the public revenue, or to be security for any farmer or renter of lands on which the rent may not have been permanently fixed.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The sentence "Collectors, and Assistants to Collectors, shall not be concerned, directly or indirectly, in any farm of the public revenue, either as renters, securities or otherwise" was omitted by the Adaptation Order of 1937.

[3] The word "Native" was omitted by the Adaptation Order of 1950.

[1] [61. * * * *]

62. [*Farming of lands to, and taking security from, Europeans prohibited.*] *Rep., Mad. Act II of* 1869.

63. Collectors, and Assistants to Collectors, shall not occupy ground nor erect buildings thereon, without the sanction of the Board of Revenue. Not to occupy grounds or to erect buildings without sanction;

[1] [64. * * * *]

65. Collectors shall not publish proclamations or orders which may in any shape affect the intercourse of [2] [the Government of India] with foreign States, without an express order from the [3] [Central Government] for that purpose. Not to publish anything which may affect intercourse with foreign States.

66. Collectors, and Assistants to Collectors, shall (in cases requiring it) apply to the Board of Revenue for temporary leave of absence from their station. Collectors, or Assistants to Collectors, shall not absent themselves from their stations without having previously obtained the permission of the Board of Revenue. In the event of severe illness compelling Collectors to quit their stations without such authority, on the affidavit of medical persons with respect to the necessity of such absence, they shall deliver charge of their districts to the head Assistant on the spot, and shall report the circumstance without delay to the Board of Revenue. Applications for leave of absence.

67. In the absence of Collectors, the senior Assistant on the spot shall take charge of the public business. Charge in Collector's absence.

68. On the resignation or removal of Collectors, they shall deliver to their successors or Assistants every public account and document, with all original letters received, and attested copies of all letters sent, relative to their charges respectively. Collectors shall certify officially duplicate lists of such accounts and documents, and shall deliver one list to their successors or Assistants, and shall forward the other list to the Board of Revenue. Collectors removed or resigning, to deliver public documents to their successors.

69. Collectors on receiving charge shall count the balance of cash delivered to them, and shall grant receipts for the amount in duplicate; one receipt shall be retained by the person delivering over charge, and the other shall be transmitted to the Board of Revenue. Collectors receiving charge to count balance of cash and grant receipts in duplicate.

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[1] This section was omitted by the Adaptation Order of 1937.

[2] These words were substituted for "the British nation" by the Adaptation Order of 1950.

[3] These words were substituted for the words "Governor in Council" by the Adaptation Order of 1937.

MADRAS REGULATION V OF 1804. [1]

[THE MADRAS COURT OF WARDS REGULATION, 1804.]

[*28th August 1804.*]

A Regulation for constituting a Court of Wards, for declaring the powers vested in the said Court, and for defining the Rules under which those powers are to be exercised.

[*Rep. except as regards the Scheduled Districts, Mad. Act I of* 1902.]

MADRAS REGULATION I OF 1816. [2]

[THE TANJORE POLICE REGULATION, 1816.]

[*12th January 1816.*]

A Regulation for declaring the contributions hitherto paid in the Province [3] of Tanjore on account of the Kavali Police appropriable to the support of the new Police established, or to be established, in that Province ; and * * * [4] for regulating the collection and assessment of those contributions.

Preamble. WHEREAS it has been deemed expedient to abolish the Kāvali system in the Province of Tanjore, and to establish a

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[1] Short title, " The Madras Court of Wards Regulation, 1804 "—*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was repealed in the whole of the Madras Presidency, except the Scheduled Districts, by Madras Act I of 1902.

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), *s.* 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It was declared by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Rampa Country—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid p.* 723.

It was extended, by notification under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid*, p. 722.

The Regulation was extended by a notification under s. 5 of the Scheduled Districts Act to the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Regulation was in force in the Nugur taluk of the East Godavari district in virtue of s. 2 (1) of Regulation I of 1909.

This Regulation will cease to be in force in the Scheduled Areas in the East Godavari, West Godavari and Visaghapatnam districts by virtue of section 2 of the Madras Court of Wards Act, 1902 (Madras Act I of 1902), which has been extended to those areas by the Madras (Partially Excluded Areas) Court of Wards Regulation, 1940 (Madras Regulation V of 1940).

[2] Short title, " The Tanjore Police Regulation, 1816 "—*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

[3] The Madras District Police Act, 1859 (Central Act XXIV of 1859), is in force in theDistrict of Tanjore—*see* Notification, dated 19th January 1860, in the List of Local Rules and Orders.

[4] Certain words in the title and Preamble relating to the house-tax have been omitted as obsolete.

more efficient system of police for that Province ; and whereas it has become necessary, in consequence, that the funds hitherto allotted for the support of the Kāvali system should be declared appropriable, under the orders of the [1] [Government] to the maintenance of the new establishments of police ; and whereas those funds, derived from certain proportions of the annual gross produce of cultivated lands, whether mālguzāri or lākhirāj, from certain allotments of lands rent-free or favourably assessed, from * * * [2] the contributions termed porupu and magamai, and other taxes of various descriptions, have never been regulated by public authority, but have been partially collected, and their collection has been attended with much inconvenience, irregularity and trouble ; and whereas it is expedient that * * * [2] provision should be made for collecting such sums as may be due in arrear to the police-fund, according to the rules which have been heretofore adopted by the Collectors of the land-revenue under the sanction of the Board of Reveune ; therefore, with a view to provide for the equalization and due collection of the said funds, and to render them appropriable to the support of the new police-establishments in Tanjore, the [1] [Governor in Council] has been pleased to enact the following Regulation to take effect from the date of its being promulgated.

Contributions on account of police appropriable to support of new police.

2. The contributions and allowances of every description, whether in money, grain or land, which have hitherto been allotted for the support of the Kāvali system of police in the Province of Tanjore, are hereby declared to be resumed, and to be appropriable, under such orders as the [3] [State Government] may be pleased to issue, to the maintenance of the new establishment of police in that Province.

Collections from malguzárí lands

3. *First.*—The contributions from mālguzārī lands hitherto levied for the Kavali establishments, under the denomination of Kávali svatantrams, shall continue to be collected. The annual amount of such contributions, to be assessed on each village respectively, shall be the average of Kāvali svatantrams paid or payable by each village in the six years from Faslī 1214 to Faslī 1219, inclusive. The contributions above-mentioned shall be paid by the mirāsīdārs or renters into the public treasury at the time and in the manner which may be established for the payment of the land-revenue.

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[1] This word was substituted for "Governor in Council" by the Adaptation Order of 1950.

[2] Certain words in the title and Preamble relating to the house-tax have been omitted as obsolete.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Assessment on villages under amáni between Faslis 1214 and 1219;

Second.—The amount of contribution to be paid in lieu of Kávali svatantram by villages which were under management during the period mentioned in the preceding clause, or during any part thereof, shall be collected at the established centage on the actual amount of the produce of such village.

and upon villages now or hereafter under amáni.

Third.—In villages which now are, or shall hereafter come, under management, the Collector shall levy the contributions to be raised on account of Kávali svatantram from the actual produce of such villages in grain at the established rates, and shall realize the same into the public treasury, in like manner as the land-revenue of those villages.

Contribution to be levied on account of police from lands wholly or partly alienated.

4. The allowances and contributions hitherto paid to the Kávalgárs by the holders of land wholly or partly alienated shall cease, and in lieu thereof there shall be annually levied from the holders of such lands a contribution in money at the same rate per véli, as, under the provisions of clause first, section 3 of this Regulation, is to be collected from the holders of the neighbouring málguzárí lands of similar description and quality.

5. [*Rules regarding assessment of house-tax.*] *Rep., Central Act XVIII of* 1861.

Contributions by whom to be levied. Recovery of arrears.

6. *First.*—The Collector of the land-revenue shall continue to levy and receive the svatantram assessment * * * [1] All arrears of such contributions as are established by this Regulation shall be recoverable by distraint of personal property, in the same way and under the same process as arrears of the land-revenue.

Recovery of arrears now due under usage of Province or orders of Board and of Government.

Second.—All arrears which may be due to the police-fund under the former usages of the Province of Tanjore, or under the orders of the Board of Revenue, and of the [2] [State Government], shall, in like manner, be recoverable by distraint of personal property in the mode prescribed by the Regulations for the recovery of arrears of revenue.

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[1] The reference to the house-tax was repealed by Central Act XVIII of 1861, s. 1.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

MADRAS REGULATION XI OF 1816.[1]

[THE MADRAS VILLAGE-POLICE REGULATION, 1816.]

[*13th September 1816.*]

A Regulation for the establishment of a general system of Police throughout the territories subject to the Government of Fort St. George.

1 to 7. [*Repeal of certain enactments : Persons by whom Police duties are to be discharged : Powers and duties of heads of villages : Police duties.*] *Rep., Central Act XVII of* 1862.

Appointment and powers of heads of villages and Police-officers in the Amindivi Islands.

[2] [7. In the Amindivi Islands, the State Government may appoint any person to be the head of a village or the Police-officer of a district, and confer on him all or any of the powers exercisable under this Regulation by the head of a village or the Police-officer of a district, as the case may be :

Provided that the Monegar shall not be appointed as the Police-officer of a district :

Provided further that where the head of a village is appointed under this section—

(i) if the power of making a search under section 11 is conferred on him, he shall make the search in the presence of not less than three *muktessors* or *mooppans* ; and

(ii) if the power of conducting an enquiry under section 13 is conferred on him, that section shall have effect as if in the *First* clause thereof, the words " with not less than three *muktessors* or *mooppans* " had been substituted for the words " with the *Karnam* and two or three respectable inhabitants " and as if for the *Third* clause thereof, the following clause had been substituted, namely :—

" *Third*—If the Police-officer should not appear to conduct the inquiry, the head of the village shall take down

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[1] Short title, " The Madras Village-Police Regulation, 1816 "—*See* Repealing and Amending Act, 1901 (Central Act XI of 1901).

Sections 8, 9, 10, 11 *cl.* (1), 13, 14 and 17 were declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the Second Schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the Sixth Schedule to that Act.

The Regulation has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Rampa Country—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid.*, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the Taluqs of Bhadrachalam and Rakapilli—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid*, p. 722.

The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Regulation is in force in the Nugur taluk of the East Godavari district in virtue of s. 2 (1) of Regulation 1 of 1909.

[2] This section was inserted by section 2 of the Madras Village Police (Amindivi Islands Amendment) Regulation, 1951 (Madras Regulation V of 1951) which has come into force on 1st January 1952.

in writing the evidence of the persons who may be examined, record any necessary particulars respecting the appearance of the body and frame a report of the whole proceedings. The head of the village shall attest such report with his signature, cause it to be attested by two or more of the *muktessors* or *mooppans* who may be present at the investigation and forward it to the Police-officer of the district with the evidence he may have taken and with the views, if any, of such of the *muktessors* or *mooppans* as may wish to record their views separately, with regard to the subject-matter of the inquiry"]

Information to be communicated by heads of villages to each other.

8. Heads of villages shall reciprocally communicate any information which they may receive of offences committed, or of gangs of robbers, or of suspicious persons having entered or taken refuge in each other's villages, and shall co-operate in all things for the apprehension of offenders and the general security of the country.

To report arrival of suspicious persons.

9. Heads of villages shall report to the Police-officer of the district the arrival in their villages of strangers of suspicious appearance, and all information which they may be able to collect concerning such persons.

Powers of heads of villages to inflict punishment.

10. *First.*—[1] In cases of a trivial nature, such as abusive language and inconsiderable assaults or affrays, heads of villages shall have authority, on a verbal examination, either to dismiss the parties, or, if the offence charged shall be proved to have been committed by the persons accused of it and shall appear deserving of punishment, to confine the offending parties in the village choultry for a time not exceeding twelve hours * * *.[2]

Obligation to report cases of punishment.

Second.—Heads of villages shall report to the Police-officer of the district all cases in which they shall have exercised the power of punishment granted to them by the first clause of this section, but it shall not be necessary for them to report the cases in which they may dismiss parties.

Heads of villages how to proceed on receiving information of stolen property.

11. *First.*—Where heads of villages may have credible information of stolen property being concealed, and there may be reason to apprehend that it will be made away with unless prompt measures be taken to secure it, they shall cause search to be made and the property, if found, to be secured and forwarded with the offender to the Police-officer of the district. If the place of concealment be a dwelling-house, the search shall be made only between sunrise and sunset.

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[1] This clause has been extended to petty thefts—*see* Mad. Reg. IV of 1821, s. 6, cl. 1.

[2] The words " or if the offending parties shall be of any of the lower castes of the people, on whom it may not be improper to inflict so degrading a punishment, to order them to be put in the stocks for a time not exceeding six hours " were repealed by section 27 of the Madras Village Courts (Amendment) Act, 1919 (Madras Act II of 1920).

Second and Third.—[*Procedure when persons found selling stolen property.*] *Rep., Central Act XVII of* 1862, *as amended by Central Act XXXVI of* 1867.

12. [*Duties of heads of villages with regard to strays.*] *Rep., Central Act III of* 1857.

Procedure on discovery of dead bodies.

13. *First.*—The head of the village, on receiving information of the discovery of the body of a person supposed to have been murdered, shall immediately proceed to the spot with the Karnam and two or three respectable inhabitants, in whose presence he shall examine every person who may be able to afford any information regarding the discovery of the body and its appearance when discovered, or regarding the murder of the deceased, if the body should have been deprived of life by murder.

Notice of such discovery to Police-officer.

Second.—The head of the village on receiving information of the discovery shall also, without delay, send notice of it to the Police-officer of the district and, if the Police-officer shall arrive at the spot in time to inquire into the circumstances under which the body may have been discovered, the inquiry shall be conducted under his superintendence.

Procedure where Police-officer fails to appear to conduct inquiry.

Third.—If the Police-officer should not appear to conduct the inquiry, the head of the village shall cause the Karnam to take down in writing the evidence of the persons who may be examined, and to record any necessary particulars respecting the appearance of the body, and to frame a report of the whole proceedings. The head of the village shall attest such report with his signature, and, having procured it to be attested by two or more of the inhabitants who may be present at the investigation and by the Karnam, he shall forward it to the Police-officer of the district with the evidence he may have taken.

Apprehension of person suspected of murder.

Fourth.—If on the proceedings of the head of the village there shall in any case appear ground for suspecting any person or persons who may be within his jurisdiction of having committed the murder, the head of the village shall immediately apprehend and send such person or persons to the Police-officer of the district.

Registers of persons confined to be kept by Karnams, and transmitted to Police-officer.

14. Karnams shall keep registers of persons confined by the heads of villages under section 10 of this Regulation, and these registers shall be transmitted monthly by the heads of villages to the Police-officers of their respective districts, to be forwarded to the Magistrate.

[*Form of Register.*] *Rep., Central Reg. IX of* 1828, *s.* 2.

15 to 46. [*Appointment and duties of village-watchers: duties of kutwals and their peons: Police duties of Tahsildars and other Revenue servants: powers and procedure of Tahsildars in various cases; Zamindars as Police-officers: Amins of Police in large towns: limitations for complaints of*

petty offences : arrest of persons tendering property for sale or pawn under suspicious circumstances : prosecution of Police-officers for extortion or oppression : Police-officers to take no cognizance of cases of adultery and fornication.] *Rep., Central Act XVII of* 1862.

Magistrates charged with the maintenance of peace.

47. The Magistrates shall be charged with the maintenance of the peace within their respective zilas, and, whenever their establishments may be insufficient to resist banditti or other disturbers of the public peace, they shall apply for assistance to the nearest military station * * *[1].

48 to 51. [*Police peons to be equally employed in Police and Revenue duties : licences for manufacture of fire-arms : inter-communication between Magistrates : duties of Magistrates in case of disputes concerning crops or use of water.*] *Rep., Central Act XVII of* 1862.

52. [*Disposal of strays.*] *Rep., Central Act III of* 1857.[2]

53 to 56. [*Determination of rates of hire of palanquin-bearers, coolies, etc. : complaints regarding false weights and measures : only Magistrates to issue orders to Police-officers : may correspond direct with Government.*] *Rep., Central Act XVII of* 1862.

[1] Certain words, repealed by Central Act XII of 1876, have been omitted. The words had previously been repealed by Mad. Reg. II of 1832.

[2] Also included in the Schedule to Central Act XVII of 1862.

MADRAS REGULATION XII OF 1816.[1]

[THE MADRAS VILLAGE-LANDS DISPUTES REGULATION, 1816.]

[*13th September 1816.*]

A Regulation for authorizing Collectors to refer *claims regarding lands or crops, the validity of which claims may depend on the determination of a disputed boundary*[2]; as also certain disputes respecting the occupying, cultivating, and irrigating of land, to be tried and determined by Village and District Panchayats ; and for prescribing the Rules under which the trial of such disputes shall be conducted, and the decisions of the Panchayats carried into execution.

Preamble

[2] *The mode of determining the validity of claims to disputed lands or crops prescribed in section* 2, *Regulation XXXII*, 1802,[3] *being considered to be inconvenient to the parties*, and the determining, in the Adálat of the zila of suits respecting the occupying, cultivating and irrigation of land, which may arise between proprietors or renters and their raiyats, in those districts where the land-revenue is fixed either permanently, or for a term of years, being also regarded as liable to the same objections ; and it being deemed expedient that further provision should be made for the investigation and determination of such claims, and that Collectors should for that purpose be authorized to refer

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[1] Short title " The Madras Village-lands Disputes Regulation, 1816 " —*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been extended, by notification under s. 5 of the same Act, Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Rampa Country —*see Gazette of India*, 1879, Pt. I, p. 631, and *Fort St. George Gazette*, *ibid*, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the taluks of Bhadrachalam and Rakapilli—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette*, *ibid*, p. 722.

The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Regulation is in force in the Nugur taluk of the East Godavari district in virtue of s. 2 (1) of Regulation I of 1909.

[2] The Regulation has been repealed by the Madras Survey and Boundaries Act, 1897 (Mad. Act IV of 1897), so far as it applies to cases of claims to lands or crops, the validity of which claims may depend upon the determination of an uncertain and disputed boundary or landmark.

[3] Rep. Mad. Reg. V of 1822, s. 10.

them for trial and decision to Village and District Panchayats; the [Governor in Council] has passed the following rules, to be in force in the territories subject to the Presidency of Fort St. George.

Panchayats authorized to determine suits referred to them.

2. Village and District Panchayats are hereby authorized to hear and determine such suits as may be referred to them by the Collectors of zilas under this Regulation, through the Village and District Munsifs.

Employment of relatives, etc., as vakils.

3. Plaintiffs and defendants shall be allowed to employ a relative, a servant or dependent to act in their behalf in suits which may be brought before the Collectors of zilas under this Regulation, under the same provisions as are prescribed * * * [1] for suits before the District Munsifs.

In what cases persons may prefer their claims to Collectors.

4. *First.*—In cases of claims to lands or crops in districts permanently settled or otherwise, the validity of which claims may depend on the determination of an uncertain and disputed boundary or landmark, and also in cases of disputes respecting the occupying, cultivating, and irrigating of land which may arise between the proprietors or renters and their raiyats, in those districts only where the land-revenue is fixed, either permanently or for a term of years, persons having such claims may prefer them in person or by vakil to the Collector of the zila in which the lands may be situated.

What the plaint is to contain if for land.

Second.—The plaint, if for land, shall contain as accurate a description as can be obtained of the land claimed, its position, boundaries, extent and the value of its estimated annual produce, also whether it be subject to the payment of rent or revenue, or whether it be exempt from any charge on these accounts, also the time when the cause of action arose, the name and residence of the person or persons complained against, and all material circumstances which may elucidate the transaction.

What the plaint is to contain if for water.

Third.—If the plaint be for water, it shall, with regard to the land to be watered, state the above particulars and in addition thereto the custom of the village relative to the irrigation of the land in question.

Summons to defendant to be issued. Contents of summons. How to be attested and served.

5. *First.*—The Collector, on receiving a complaint preferred under the preceding section, shall issue a summons to the defendant containing a short abstract of the complaint, and shall require the defendant to appear at the kachari of the Collector, in person or by vakil, on a day specified, to make answer to the complaint. The summons shall be attested by the seal of the Collector and his official signature, or that of his Assistant, and shall be served by a single peon of the Collector's establishment.

[1] Certain obsolete words have been repealed by Central Act XII of 1876.

Second.—The Collector's peon shall require the defendant to affix his signature to the summons in acknowledgment of its having been duly served; and, in the event of defendant refusing to affix his signature thereto, the peon shall call upon some of the village-officers or neighbours of the defendant to witness such refusal and to attest the endorsement of it which he shall make on the summons, and shall return the same to the Collector on or before the day fixed for such return.

Peon how to proceed.

Refusal to acknowledge summons; how to be attested.

Third.—If a defendant against whom a summons may issue shall abscond or is not after diligent search to be found, or shall shut himself up in his own or in any house or building, or retire to any place, so that the process cannot be served upon him and the peon shall return that on such account he has not been able to serve or execute the process, or if he shall refuse to acknowledge the service of the summons, on return being made in the mode prescribed in the preceding clause, the Collector shall cause a writing in the language of the district to be stuck up in some conspicuous part of his kachari, containing a copy of the summons and a notice that if the party shall not appear on a day to be specified (which shall not be less than fifteen days from the time that the notice may be fixed up), the Collector will proceed without further notice to refer the cause, with the consent of the plaintiff, to be tried and determined by a Panchâyat of the district in which the disputed lands may be situated, without the appearance or answer of the defendant. The Collector shall likewise order a copy of the summons and notice to be fixed up, with all practicable despatch, on the outer door of the house in which the defendant may have usually dwelt, or in some conspicuous place in the village or other place in which he may have generally resided. The peon serving the summons shall return the order, with an endorsement stating at what times and places the summons may have been fixed up.

How Collector to proceed if defendant is not to be found, or refuse to acknowledge summons.

Notice to be affixed.

Where notice is to be affixed.

Return how made.

Fourth.—If the defendant shall appear by the time limited in the notice, the Collector shall proceed to investigate the cause of his absence, or the circumstance of his refusal to sign the summons, and, if it shall appear to the satisfaction of the Collector that the conduct of the defendant has been contemptuous, he is empowered to punish such contempt by imposing a fine on the defendant, according to the circumstances of the case, not exceeding ten rupees; and if such fine be not immediately paid, or security given for the payment within a reasonable time, the Collector shall punish such defendant by committing him to the zila jail, or by keeping him in custody in the kachari or village-choultry for a period not in any case exceeding fifteen days, or until the fine shall be paid.

Collector how to proceed if defendant appear.

Defendant liable to fine for contempt.

Collector how to proceed if such fine be not paid or security given.

Plaint to be read to defendant in presence of plaintiff.

Fifth.—On the appearance of the defendant, if he shall appear according to the first summons, or by the time limited in the notice, the Collector shall cause the plaint to be read over to the defendant in the presence of the plaintiff, and shall demand whether he admit or deny the truth of the complaint. If the defendant shall acquiesce in the truth of the complaint, the Collector shall record such acquiescence at the foot of the plaint, and require the defendant to attest the same with his signature in the presence of witnesses, not being servants of the Collector's establishment, who shall also attest the same, and the document shall be countersigned by the Collector, who shall return the document to the complainant, together with an order to the Tahsildar or [1] [Deputy Tahsildar] or Village Munsif, to transfer the lands described in the plaint to the plaintiff; or, if the plaint include crops grown on such lands, to cause the crops, or the value of them to be restored to the plaintiff by the defendant; or, if the plaint be for water to order the water to be distributed as required in the plaint; and no other proceedings shall be necessary in the cause.

Procedure when defendant admits truth of plaint.

Procedure when defendant denies truth of plaint.

Sixth.—If the defendant shall deny the truth of the plaint, the Collector shall inquire of the parties whether they mutually consent to have the cause investigated and decided by a Village Panchâyat; and upon their agreeing in writing to have the matter investigated and decided by the Panchâyat of any particular village, the Collector shall immediately forward the petition of plaint with an order to the Munsif of that village to assemble a Panchayat without delay to investigate and determine the suit.

When matter may be referred to District Panchayat.

Seventh.—If either the plaintiff or defendant shall object to the reference of the cause to be tried and determined by a Village Panchâyat, and either of them shall desire in writing that it may be referred to be tried and decided by a District Panchâyat, the Collector, whether the other party agree to such reference or not, shall forward the plaint to the Munsif of the district in which the disputed property may be situated, with an order to assemble a Panchâyat, within fifteen days from the receipt of such order, to investigate and determine the suit.

If neither party agree to reference, suit to be dismissed.

Eighth.—If neither of the parties shall agree to the reference of the suit to a District Panchâyat, the suit shall be dismissed, and the parties shall be at liberty to seek redress from the Zila Court or any competent jurisdiction.

Panchayats how assembled; their procedure.

6. *First.*—The Panchâyats shall be assembled according to the rules prescribed for assembling Village and District Panchâyats, and their proceedings in cases referred under

[1] These words were substituted for "principal Native Revenue-officer of the district" by the Adaptation Order of 1950.

this Regulation shall be conducted according to the general rules enacted in Regulations V [1] and VII,[2] 1816, for their guidance, with the following qualifications.

When Panchayat to be formed on challenge of one party.

Second.—When only one of the parties shall appear before the District Munsif, the Panchayat shall be formed upon the challenge of such party only, and shall proceed to try the suit * * * [3].

Sending copies of decree to Collector.

Third.—When the decree has been framed and two copies of it prepared, it shall be read in the presence of the parties, and the two copies shall be sealed up in a packet and delivered to the Munsif, who shall forward it to the Collector sealed as he received it.

Decrees to be confirmed before execution. When to be set aside.

Fourth.—Decrees of the Village and District Panchâyats in suits which may be referred to them by the Collectors under this Regulation shall not be carried into execution until confirmed by the Collector, nor shall they be set aside for any other cause than gross partiality on the part of the Panchâyat.

Forms to be observed by Collector on receiving packet.

7. The Collector shall detain the packet in the state in which he received it for twenty days ; and, if in that time no charge of gross partiality shall be preferred by either party against the Panchâyat, he shall open the packet and confirm the decision by affixing his seal and signature to each of the two copies, and he shall return them to the Munsif from whom he received them.

When to be delivered to parties.

8. *First.*—The Munsif, on receiving the copies of the decree confirmed by the Collector, shall summon the parties and deliver to each of them a copy of the decree.

Non-appearance, or refusal, to receive copy, to be endorsed.

Second.—If either the plaintiff or defendant shall fail to appear in person or by vakil to receive a copy of the decree, or, having attended, shall refuse to receive a copy, the Munsif shall cause to be endorsed on the copy intended for such party such omission or refusal, and the date. The Munsif hall attest the same with his signature, which shall be witnessed by any two credible witnesses. The copy so endorsed shall be deposited in the records of the District Munsif, or the Village Karnam, as the case may be, to be delivered to the party afterwards claiming it.

Collector how to proceed on charge of partiality being preferred to him and proved to his satisfaction.

9. *First.*—If either of the parties shall, within the prescribed period of twenty days, charge the Panchâyat with gross partiality, and if the partiality charged against the Panchâyat shall be established to the satisfaction of the Collector * * * [4] he shall in every case, whatever the amount or value of the suit may be, submit his proceedings,

[1] Repealed by Madras Act II of 1920.
[2] Mad. Reg. VII of 1816 has been repealed by Central Act III of 1873.
[3] Certain obsolete words have been repealed by Act Central XII of 1876.
[4] Certain obsolete matter has been repealed by Central Act XII of 1876.

with his opinion on the case, to the * * [1] Court of Appeal, who, provided the charge be proved by such proceedings to their satisfaction, shall annul the decision, and the parties shall be at liberty to have recourse to another Panchâyat or to any other competent jurisdiction.

When decision of Panchayat final.

Second.—Provided, however, that the decision of a second Panchâyat shall agree with the decision of a former Panchâyat in the same suit, it shall be final.

Collector how to proceed on partiality not being proved; may levy a fine.

Third.—If the partiality charged against the Panchâyat shall not be proved to the satisfaction of the Collector, he shall confirm the decree as prescribed in section 7 of this Regulation, and shall levy a fine from the party making such groundless charge, not exceeding one hundred * [2] rupees.

Decrees how to be executed.

10. Decrees of Village and District Panchâyats, in cases referred to them under this Regulation, shall be carried into execution, on the written application of the party in whose favour the decree may be given, by the Collector, or by the Tahsildar or [3][Deputy Tahsildar], by causing the boundary, when the suit relates to a disputed boundary, to be marked out in the presence of the Village Munsif and Karnam and two or more of the principal inhabitants, and in all other cases by causing the land to be given up or the water to be distributed as prescribed by the decree.

Charges on suits under Regulation.

11. Suits instituted before the Collectors under this Regulation shall be * [1] liable only to such charges as are specified in Regulation V, 1816, [4] if decided by a Village Panchayat.* [1]

12. [*Returns of decisions of Panchâyats.*] *Rep., Mad. Act II of* 1869.

Deposit of copy of Regulation.

13. A copy of this Regulation shall be lodged with and preserved by each Village Karnam, for the information of the Village Munsifs.

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[1] Certain obsolete matter has been repealed by Central Act XII of 1876.

[2] The word "Arcot" was repealed by *ibid.*

[3] These words were substituted for "principal Native Revenue-officer of the district" by the Adaptation Order of 1950.

[4] Repealed by Madras Act II of 1920.

MADRAS REGULATION VII OF 1817.[1]

[THE MADRAS ENDOWMENTS AND ESCHEATS REGULATION, 1817.]

[*30th September 1817.*]

A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples and colleges, or other public purposes; for the maintenance and repair of bridges, choultries or chattrams, and other public buildings; and for the custody and disposal of escheats.

WHEREAS considerable endowments have been granted in money, or by assignments of land, or of the produce or portions of the produce of land by former Governments of this country, [2] [ ] and by individuals for the support of mosques, Hindu temples, colleges and choultries, and for other pious and beneficial purposes; and whereas there are grounds to believe that the produce of such endowments is in many instances appropriated, contrary

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[1] Short title, "The Madras Endowments and Escheats Regulation, 1817"—*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation shall cease to apply to Hindu religious institutions and endowments—*see* s. 5 (3) of the Madras Hindu Religious and Charitable Endowments Act, 1951 (Madras Act XIX of 1951).

So much of this Regulation as relates to endowments for the support of mosques, Hindu temples or other religious purposes is repealed by the Religious Endowments Act, 1863 (Central Act XX of 1863).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Rampa Country —*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid.* p. 722.

It has been extended by notification under s. 5 of the abovenamed Act, to the taluks of Bhadrachalam and Rakapilli—*see Gazette of India*, 1879, Pt. I, p. 630 and *Fort St. George Gazette, ibid.*, p. 722.

The Regulation has been declared by notification under s. 3 (*b*) of the same Act, not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Fort St. George Gazette*, 1898, Pt. I, p. 667, and *Gazette of India*, 1898, Pt. I, p. 872.

The Regulation is in force in the Nugur taluk of the East Godavari district in virtue of s. 2 (1) of Regulation 1 of 1909.

The regulation has been declared by a notification under s. 3, cl. (*a*) of the Scheduled Districts Act, to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930. Pt. I, p. 553.

[2] The words "as well as by the British Government" were omitted by the Adaptation Order of 1950.

to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments, and whereas it is the duty of the Government to provide that all such endowments be applied according to the real intent and will of the grantor; and whereas it is moreover expedient to provide for the maintenance and repair of bridges, choultries, chattrams and other buildings which have been erected either at the expense of Government or of individuals, for the use and convenience of the public; and also to establish proper rules for the custody and disposal of escheats—the following rules have been enacted, to be in force from the date of their promulgation throughout the [1] [territories] immediately dependent on the Presidency of Fort St. George.

General superintendence of endowments for support of mosques, etc.

2. The general superintendence of all endowments in land or money granted for the support of mosques, Hindu temples or colleges, or for other pious and beneficial purposes, and of all public buildings, such as bridges, choultries or chattrams, and other edifices, in the several [1] [territories] dependent on the Presidency of Fort St. George, is hereby vested in the Board of Revenue.

Board to provide for appropriation of such endowments, and for repair of public buildings.

3. It shall be the duty of the Board of Revenue to take such measures as may be necessary to ensure that all endowments made for the maintenance of establishments of the description above-mentioned are duly appropriated to the purpose for which they were destined by the Government or the individuals by whom such endowments were made. In like manner it shall be the duty of that Board to provide, [2] [* * * *] for the due repair and maintenance of all public edifices which have been erected at the expense either of the former or present Government, or of individuals, and which either are or can be, rendered conducive to the convenience of the community.

Buildings fallen to decay or not calculated to be useful if repaired, how to be disposed of.

4. In those cases, however, in which any of the buildings specified in the preceding section have fallen to decay, and cannot be conveniently repaired, or are not calculated, if repaired, to afford any material accommodation to the public, the Board of Revenue shall submit to [3] [the State Government] their opinion as to the most expedient mode of disposing of such buildings; and they shall be sold on the

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[1] This word was substituted for "Provinces" by the Adaptation Order of 1950.

[2] The words "with the sanction of Government" were repealed by the Madras Decentralization Act, 1914 (Madras Act VIII of 1914).

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

public account, or otherwise disposed of, as the [1][State Government] may determine.

Board to prevent endowments from being appropriated to private uses.

5. Under the foregoing rules it may be incumbent on the Board of Revenue to prevent any endowments in land or money, which have been granted for the support of establishments of the above description, or any public edifices, from being converted to the private use of individuals or otherwise misappropriated.

General superintendence of escheats.

6. The general superintendence of all escheats is likewise hereby vested in the Board of Revenue, who will, through the channel hereafter mentioned, inform themselves fully of all property of that description, and submit to [2][the State Government] their opinion as to the most expedient mode of disposing thereof; and the same shall be sold on the public account, or otherwise disposed of, as the [1][State Government] may determine.

Local agents.

7. To enable the Board of Revenue the better to carry into effect the duties intrusted to them by this Regulation, local agents shall be appointed in each zila, subject to the authority, control and orders of that Board.

Ex officio agents.

8. The Collector of the zila shall be *ex officio* one of those agents, and the [1][State Government], when [3][it] deems it necessary, may appoint any other public officer or officers from the civil, military or medical branch of the service to act in conjunction with him.

Agents to ascertain particulars of endowments, etc., and report to Board;

9. Under the provisions of the present Regulation it will be the duty of the local agents to obtain full information from the public records, and by personal inquiries, respecting all endowments, establishments and buildings of the nature of those before described, and respecting all escheats, and to report to the Board of Revenue any instance in which they may have reason to believe that lands or buildings, or the rent or revenues derived from lands are unduly appropriated, being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals.

to report names, etc., of present trustees or managers, and by what authority appointed;

10. The said local agents shall further ascertain and report to the Board of Revenue the names of the present trustees, managers or superintendents of the several institutions, foundations or establishments above described, together with other particulars respecting them, and by whom and under

[1] The words "Provincial Government" were substituted forthe words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This word was substituted for the word "he" by the Adaptation Order of 1937.

what authority they have been appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder or under any general rules or maxims applicable to such institutions and foundations.

to report to Board vacancies or casualties, and pretensions of claimants;

11. The local agent shall also report to the Board of Revenue all vacancies and casualties which may occur, with full information of all circumstances, to enable that Board to judge of the pretensions of the person or persons claiming the trust, particularly whether the succession has been heretofore by inheritance in the line of descent, or whether the successor has been in former instances elected, and by whom, or whether he has been nominated by the founder, or his heir or representative, or by any other individual patron of the foundation, or by any officer or representative of Government, or directly by the Government itself.

to recommend fit persons where right of nomination rests with Government.

12. In those cases in which the nomination has usually rested with the Government, or with the public officer, or in which no private person may be competent and entitled to make sufficient provision for the succession to the trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the Board of Revenue, a person or persons for the charge of trustee, manager or superintendent, strictly attending to the qualifications of the person or persons selected, and to any special provisions of the original endowments and foundation, and to the general rules or the known usages of the country applicable to such cases.

Board to appoint persons, or make other provisions for trust with reference to conditions of endowment.

13. On the receipt of the report and information required by the preceding clause, the Board of Revenue shall either appoint the person or persons nominated for their approval, or shall make such other provision for the trust, management or superintendence, as may to them seem right and fit, with reference to the nature and conditions of the endowment, having previously called for any further information from the local agents that may appear to them to be requisite.

Persons feeling injured by orders under Regulation may sue for recovery of rights or for damages.

14. Nothing contained in this Regulation shall be construed to preclude any individual who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the before-mentioned authorities with respect to the appropriation of any lands or buildings, or of any rents and revenues from lands, of the nature of those before described, from suing in the mode and form prescribed by the Regulations where [1][the Government] or public officers are parties; or under the general provisions of Regulations, if the

[1] The words "the Crown" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

suit be brought against a competitor or other private person, for the recovery thereof in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him.

Object of Regulation.

15. It is to be clearly understood that the object of the present Regulation is solely to provide for the due appropriation of lands or other endowments granted for public purposes agreeably to the intent of the grantor, and not to resume any part of them or of their produce, for the benefit of Government. In like manner it is fully intended that all buildings erected by any former or the present Government, or by individuals, for the convenience of the public, should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay and cannot be conveniently repaired or which can no longer contribute to the accommodation of the community.

Government servants and others guilty of fraud or embezzlement, how punished.

16. The legislative provisions now in force or which may hereafter be enacted, for the punishment of fraud or embezzlement in the [2][ ] servants of [1][the Government] employed under the Collector in the department of land-revenue, shall be held applicable to all [2][ ] servants, and to all trustees, managers or superintendents employed in, or charged with, the settlement, custody or appropriation of the revenues, funds or other property of the public institutions referred to in this Regulation.

[3][**17.** Notwithstanding anything hereinbefore contained, the [4](State Government) may delegate power to dispose of buildings under section 4 of escheats under section 6 to the Board of Revenue or to any officer not below the rank of an officer in charge of the revenue administration of a division of a district.]

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[1] The words "the Crown" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[2] The word "Native" was omitted by the Adaptation Order of 1950.

[3] Section 17 was added by the Madras Decentralization Act, 1914 (Madras Act VIII of 1914).

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

MADRAS REGULATION VIII OF 1817.[1]

[THE MADRAS REVENUE RECOVERY (MILITARY PROPRIETORS) REGULATION, 1817.]

[*9th December 1817.*]

[2] A Regulation for regulating the procedure where the estate of [3] [an officer or soldier] in the Madras Command becomes liable to sale for an arrear of revenue.

1 to 8. [*Modification in favour of Native officers and soldiers of the provisions of certain Regulations regarding suits: appointment by them of attorneys to conduct suits: rules to be observed when suits brought against them: grant of leave for purpose of suits: permitted to conduct suits in person: such suits to be taken up at once and speedily decided: notice required when their lands attached.*] *Rep., Central Act X of* 1861.

Registration of proprietors of malguzari estates, being officers or soldiers.

9. *First.*—Any registered proprietor of an estate paying revenue to Government, who may be entertained as [4] [an officer] or soldier [5] [in the Madras Command], shall be at liberty to notify to the Collector the rank which he may hold and the designation of the corps to which he may be attached. A record of such notification shall be inserted by the Collector in the public registers and accounts relative to the estate and its assessment; and in cases in which the estate, or a portion of the estate, of [4] [an officer] or soldier who may have made such notification shall become liable to public sale for the recovery of an arrear of revenue, the Collector shall address an official letter to the Commanding Officer of the corps drawn in the form prescribed in No. 5 of the Appendix to this Regulation, and shall enclose in such letter a written notice, signed

Collectors how to proceed if such estates become liable to sale for arrear of revenue.

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[1] Short title, "The Madras Revenue Recovery (Military Proprietors) Regulation, 1817"—*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

Section 9 of the Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), section 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

The Regulation has been declared not to apply to the East Godavari Agency by notification under sub-section (2) of section 52-A of the Government of India Act—*see Fort St. George Gazette*, 1930, Part I, p. 1932.

[2] This title has been substituted for the original title by the Repealing and Amending Act, 1901 (Central Act XI of 1901)—Second Schedule, Part I.

[3] These words were substituted for the words "a native officer or soldier" by the Adaptation (Amendment) Order of 1950.

[4] These words were substituted for the words "a Native officer" by *ibid.*

[5] These words were substituted for the words "on the Military establishment under the Presidency of Fort St. George" by the Amending (Army) Act, 1894 (Central Act XIII of 1894)—Second Schedule.

and sealed by himself and attested by the [1][principal officer] on his establishment, specifying the amount of the arrear and the date on which it became due, and requiring that it be paid at the treasury of the collectorship within such limited period of time as, on consideration of the distance at which the corps may be stationed, and other circumstances of the case, may appear to be proper and reasonable.

Commanding Officer how to proceed on receiving notice.

Second.—The Commanding Officer of the corps shall acknowledge to the Collector the receipt of his letter, and shall specify the date on which the notice may have been communicated to the party, or the circumstances which may have rendered it impracticable to make such communication.

Collectors how to proceed when arrears are not discharged in specified time.

Third.—If the [2][ ] officer or soldier shall omit to discharge the arrear within the term specified in the notice, the Collector shall report the circumstances of the case to the Board of Revenue, transmitting at the same time a copy of the notice and of his correspondence with the Commanding Officer, and shall be guided in his further proceedings by the orders which he may receive in each case from the Board.

10. [*Protection of correspondence by Commanding Officers with Courts on the merits of cases.*] *Rep., Central Act X of* 1861.

APPENDIX.

FORMS NOS. 1 TO 4.

[*Repealed by Central Act XII of* 1876.]

FORM NO. 5.

To

Commanding Officer of the Bat. Regt.

SIR,

I HAVE the honour to inform you that the right of [*A.B.*] in the village [*or* estate] of is about to be sold on account of arrears of public revenue for the year .

In conformity with clause first, section 9, Regulation VIII, 1817, I herewith enclose a written notice to be communicated to said to be an officer [*or* sepoy] in the corps under your command, and who is alleged to be the proprietor [*or* sharer] of the village [*or estate*] in question.

You are requested to acknowledge the receipt of this letter and to state on what day the notice may have been communicated by you to the said , or the circumstances which may have rendered it impracticable to make such communication.

I am, Sir, etc.,

Dīwānī Adālat, *Judge.*

[1] These words were substituted for the words "principal Native officer" by the Adaptation (Amendment) Order of 1950.

[2] The word "Native" was omitted by *ibid.*

MADRAS REGULATION II OF 1819.[1]

[THE MADRAS STATE PRISONERS REGULATION, 1819.]

[*4th March 1819.*]

A Regulation for the confinement of State Prisoners.

Preamble.

WHEREAS [2][reasons connected with the maintenance of public order in the Province] occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper; and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the [3][State Government]; and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision and the person affected thereby should at all times be allowed freely to bring to the notice of the [3][State Government] all circumstances relating either to the supposed grounds of such determination,

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[1] Short title, "The Madras State Prisoners Regulation, 1819"—*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), section 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared in force in the Scheduled Districts in Ganjam and Vizagapatam by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874)—*see Gazette of India*, 1898, Pt. I, p. 869, *Fort St. George Gazette*, 1898, Pt. I. p. 666; in the Rampa Country—*see* notification No. 1151, *Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette*, 1879, Pt. I, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the taluks of Bhadrachalam and Rakapilli—see *Fort St. George Gazette*, 1879, Pt. I, p. 722, and *Gazette of India*, 1879, Pt. I, p. 630.

The Regulation has been declared by a notification under section 3, clause (*a*) of the Scheduled Districts Act, to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—see *Fort St. George Gazette*, 1930, Part I, page 553.

As to direction of warrants under this Regulation—*see* Central Act V of 1871, section 15. The Habeas Corpus section (491) of the Code of Criminal Procedure, 1898, does not apply to persons detained under the Regulation.

As to commitments by the Agents in Ganjam and Vizagapatam—*see* Central Act XXIV of 1839, section 7. For further provisions—*see* the State Prisoners Act, 1858 (Central Act III of 1858).

The Regulation is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1909.

On and from the 1st April 1937 the Regulation is in force throughout the State of Madras by virtue of section 12.

[2] These words were substituted for the words "reasons of State policy" by the Adaptation Order of 1937.

[3] These words were substituted for the words "Governor in Council" by the Adaptation Order of 1950.

or to the manner in which it may be executed; and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support, according to his rank in life and to his own wants and those of his family; and whereas [1][reasons of State] sometimes render it necessary that the estates and lands of zamindars, taluqdars and others, [2]* * * * * * * should be attached and placed under the temporary management of the Revenue authorities, without having recourse to any judicial proceeding; and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government; [3][it is hereby enacted as follows :—]

Procedure in placing persons under restraint as State prisoners.

2. *First.*—When [4][reasons connected with the maintenance of public order in the State] may seem to the [5][State Government] to require that an individual should be placed under personal restraint without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment [6][shall be issued by the State Government] to the officer in whose custody such person is to be placed.

Form of warrant.

Second.—The warrant of commitment shall be according to the form prescribed in the Appendix to this Regulation.

Warrant to be authority for detention of State prisoner.

Third.—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the [7][State].

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[1] These words were substituted for the words "the reasons above declared" by the Adaptation Order of 1937.

[2] The words "situated within the territories dependent on the Presidency of Fort St. George" were omitted by *ibid.*

[3] These words were substituted for the words "the Governor in Council has enacted the following rules which are to take effect throughout the Provinces immediately subject to the Presidency of Fort St. George" by *ibid*

[4] The words "reasons connected with the maintenance of public order in the Province" were substituted for the words "the reasons stated in the Preamble of this Regulation" by ibid and the word "State" was substituted for "Province" by the Adaptation Order of 1950.

[5] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[6] The words "shall be issued by the Provincial Government" were substituted for the words "under the authority of the Governor in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government shall be issued" by the Adaptation Order of 1937 and the word 'State' was substituted for "Provincial" by the Adaptation Order of 1950.

[7] The word "Province" was substituted for the words "territories subject to the Presidency of Fort St. George" by the Adaptation Order of 1937 and the word "State" was substituted for "Province" by the Adaptation Order of 1950.

Communication of grounds of detention and opportunity of making representation.

[1][**2-A.** When any person is detained in pursuance of a warrant of commitment issued by the Government, the Government shall, as soon as may be, communicate to the State prisoner the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order :

Provided that nothing in this section shall require the Government to disclose facts which it considers to be against the public interest to disclose.]

Officers having custody of State prisoners to report to Government.

3. Every officer in whose custody any State prisoner may be placed shall, on the first of January and first of July of each year, submit a report to the [2][State Government] [3] * * * * * * , on the conduct, the health and the comfort of such State prisoner, in order that the [2][State Government] may determine whether the orders for his detention shall continue in force or shall be modified.

4. [*State prisoners to be periodically visited.*] *Rep., Central Act XVI of 1874.*

Representation by State prisoners to be submitted to Government.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the [2][State Government].

Report as to their confinements, health and allowances.

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the [2][State Government] whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family according to their rank in life.

Allowance to be appropriated for support of State prisoner.

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

8. [*Foregoing provisions made applicable to persons already confined as State prisoners.*] *Rep., Central Act XII of 1876.*

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[1] This section was added by the Adaptation Order of 1950.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] The words "through the Chief Secretary to Government" were omitted by the Adaptation Order of 1937.

Attachment of estates by orders of Government when to be communicated to Court.

9. Whenever the [1] [State Government] for [2] [reasons of State], shall judge it necessary to attach the estates or lands of any zamindar, jagirdar, taluqdar or other person, without any previous decision of a Court of Justice or other judicial proceeding, the grounds on which the resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, [3] * * * * * to the Judge of the district in which the lands or estates may be situated [4] * * and to the Sadr and Faujdari Adalat.

Management of attached estates.

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjusted on the same principles as those of other estates held under khas management.

Not liable to be sold while under attachment.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Satisfaction of decrees of Courts.

Third.—In the cases mentioned in the preceding clause the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

Procedure when Government releases estate from attachment.

11. Whenever the [1] [State Government] shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

Extent.

[5] [**12.** This Regulation extends to the whole of the [6] (State) of Madras.]

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "the reasons declared in the preamble to this Regulation" by the Adaptation Order of 1937.

[3] The words "under the hand of one of the Secretaries to Government" were omitted by *ibid.*

[4] Certain obsolete words have been repealed by Central Act XII of 1876.

[5] This section was inserted by the Adaptation Order of 1937.

[6] This word was substituted for the word "Province" by the Adaptation Order of 1950.

APPENDIX.

Form of Warrant of Commitment.

To the (*here insert the officer's designation*).

WHEREAS the Governor * * [1], for good and sufficient reasons, has seen fit to determine that (*here insert the State prisoner's name*) shall be placed under personal restraint at (*here insert the name of the place*) you are hereby required and commanded, in pursuance of that determination, to receive the person above named into your custody, and to deal with him in conformity to the orders of the Governor [1] * * and the provisions of Regulation II of 1819.

[2] [ ]

MADRAS REGULATION IV OF 1821.[3]

[THE MADRAS VILLAGE POLICE REGULATION, 1821.]

[*15th June 1821.*]

A Regulation for giving greater efficiency to the system of Police established in the [4][territories] subordinate to the Presidency of Fort St. George.

[5] **1 to 5.** [*Extension of authority of amins of police : duties of subordinate officers : inquiries by subordinate officers : powers of Heads of Police to punish certain petty thefts : powers to fine and award compensation.*] *Rep., Central Act XVII of 1862.*

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[1] The words " in Council " were omitted by the Adaptation Order of 1937.

[2] The words " Fort St. George, the
By order of the Governor in Council, A.B.,
Chief Secretary to Government."
were omitted by *ibid.*

[3] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

The Regulation has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Rampa Country—*see Gazette of India*, 1879, Pt. I, p. 630 and *Fort St. George Gazette*, 1879, Pt. I, p. 723.

It has been extended, by notification under s. 5 of the same Act, to the taluks of Bhadrachalam and Rakapilli—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid*, p. 722. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Regulation is in force in the Nugur taluk of the East Godavari district in virtue of s. 2 (1) of Regulation I of 1909.

[4] This word was substituted for the word " provinces " by the Adaptation Order of 1950.

[5] It may be noted that s. 4 of this Regulation, which had been repealed by Central Act XVII of 1862, was revived by the Laws Local Extent Act, 1874 (Central Act XV of 1874), Schedule II; the section was, however, subsequently again repealed by Central Act XII of 1876, Sch., Part I. Section 6 is not referred to in the Second Schedule to Central Act XV of 1874.

6. *First.*—The powers granted to heads of villages, under clause first, section 10, Regulation XI of 1816, to punish trivial offences, are hereby extended, under the rules and limitations therein specified, to the punishment of petty thefts not attended with aggravating circumstances nor committed by persons of notoriously bad character, and where the value of the property stolen does not exceed one rupee. Power to heads of villages to punish petty thefts.

Second.—Heads of villages shall report to the head Police-officer of the district all cases in which they shall have exercised the power of punishment granted to them by clause first of this section. Report of punishment.

7 to 10. [*Repeal of Reg. IX of 1816, s. 37 : Magistrate and Head of District Police relieved from recording evidence and submitting returns of punishments in petty cases : discretion in regard to the administration of oaths.*] [*Rep., Central Act XVII of 1862.*

MADRAS REGULATION IV OF 1822.[1]

[THE MADRAS PERMANENT SETTLEMENT (INTERPRETATION) REGULATION, 1822.]

[*12th July 1822.*]

A Regulation declaring the true intent and meaning of [2][Regulation XXV of 1802, so far as it relates] to the rights of the actual cultivators of the soil. Preamble

DOUBTS having occurred regarding the meaning and construction of the Regulations enacted for insuring the prompt

[1] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

The Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette, ibid*, p. 666. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, page 553.

[2] In the title the words and figures "Regulation XXV of 1802, so far as it relates" were substituted for the words and figures "Regulations XXV, XXVIII and XXX of 1802, so far as they relate," and in s. 2 the words and figures "Regulation XXV of 1802" were substituted for the words and figures "Regulations XXV, XXVIII and XXX of 1802" by the Repealing and Amending Act, 1901 (Central Act XI of 1901), s. 3 (1), and the second schedule.

realization of the rents due and payable by the actual cultivators of the soil, either to the officers of Government on the public account, or to zamindars or others entitled to receive the same by inheritance or purchase, or in virtue of special grants issued by the ruling authority on terms of a permanent or temporary settlement of the land-revenue; it has become necessary for Government to declare that in passing those regulations it had no intention of authorizing any infringement or limitation of any established rights of any class of its subjects whatsoever, such rights being properly determinable by judicial investigation only. The Honourable the Governor in Council has therefore been pleased to pass the following Regulation.

Intent of Regulation XXV of 1802, declared.

2. It is hereby declared that the provisions of [1][Regulation XXV of 1802] were not meant to define, limit, infringe or destroy the actual rights of any description of landholders or tenants; but merely to point out in what manner tenants might be proceeded against, in the event of their not paying the rents justly due from them, leaving them to recover their rights, if infringed, with full costs and damages, in the established Courts of Justice.

[1] In the title the words and figures "Regulation XXV of 1802, so far as it relates" were substituted for the words and figures "Regulations XXV, XXVIII and XXX of 1802, so far as they relate," and in s. 2 the words and figures "Regulation XXV of 1802" were substituted for the words and figures "Regulations XXV, XXVIII and XXX of 1802" by the Repealing and Amending, Act 1901 (Central Act XI of 1901), s. 3 (1), and the second schedule.

MADRAS REGULATION IX OF 1822.[1]

[THE MADRAS REVENUE MALVERSATION REGULATION, 1822.]

[*20th December 1822.*]

A Regulation for empowering Collectors to take primary cognizance of cases of malversation in revenue affairs; for prescribing the rules to be observed in such investigations, and in the recovery of money embezzled or corruptly received by Public Servants and others amenable to the Collectors' jurisdictions; and for providing for the admission and trial of appeals from the summary decisions of Collectors in such cases.

Preamble.

WHEREAS it is necessary to the security of the revenues of Government and to the welfare of the people, that Collectors should be empowered to make summary inquiry and decision in cases in which it may come to their knowledge that the public servants under their superintendence, or the officers of the village establishments, or any other persons in their behalf, or on any assumed or pretended authority, have embezzled the public money, or made unauthorized collections, or received bribes, or extorted money or other valuable consideration, and that Collectors should have power to enforce the judgments they may pass in such cases; and whereas the trial of appeals from such judgments cannot always be made with the necessary expedition, nor without public inconvenience by the regular Courts, and it is therefore expedient to provide that in certain cases Commissioners may be appointed to try such appeals [2] * * *; the Honourable the Governor in Council has therefore enacted the following rules [3] * * * *

[1] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette, ibid*, p. 666. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act, to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Regulation has been declared by a notification under s. 3, cl. (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

[2] Certain words, which are now obsolete, have been repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

[3] Certain obsolete words have been repealed by Central Act XII of 1876, s. 1.

Collectors authorized to take primary cognizance of cases of malversation in revenue affairs.

2. *First.*—Collectors of the land-revenue are hereby authorized to take primary cognizance of all cases in which persons of any of the several descriptions hereinafter specified shall be accused or suspected of having wilfully committed, or allowed to be committed, any of the acts of malversation particularized in clause second of this section; and, on proof of the guilt of the accused or suspected persons, to inflict on them such punishments as by this Regulation the said Collectors are authorized to adjudge.

Specification of offences cognizable.

Second.—The several classes of the offences cognizable by Collectors under this Regulation are declared to be as follows, namely:—

Exacting or corruptly receiving money, etc., for performance of official acts.

1*st*, exacting or corruptly receiving, either directly or through the means or agency of any other person, any money or other valuable consideration for doing or procuring to be done any public or official act for which no such payment or gift could be lawfully demanded or received, or for the purpose, or under pretence, of obtaining or securing some undue gain, benefit or advantage to the giver of such money or other valuable consideration;

Levying extra collections.

2*nd*, levying extra and unauthorized cesses or extra collections of any kind not sanctioned by the Regulations nor by the orders of Government, and intended for the private and personal use and profit of the persons levying or causing the same to be levied;

Embezzling public money.

3*rd*,[1] embezzling or fraudulently misappropriating the public money;

Making false entries in public accounts.

4*th*, making false or fraudulent entries in the public accounts or other records, either in regard to the receipt or expenditure of public money in any of the departments under the Collector's superintendence, or concerning the extent, value, classification or assessment of land;

Falsifying, destroying, etc., public accounts.

5*th*,[1] knowingly and wilfully falsifying, destroying or concealing public accounts, or vouchers or documents of any kind immediately relating to the receipt or expenditure of the public money.

Persons subject to Collector's authority under Regulation.

Third.—The classes or descriptions of persons in regard to whom the Collectors shall have authority to exercise the powers of summary investigation, decision and punishment granted to them by this Regulation are declared to be as follows, namely:—

1*st*, all the [2][ ] servants of the Collector's public establishments;

2*nd*, all head inhabitants, karnams and their gumastás, or persons doing the duty for them, and all other village officers and servants within their respective collectorates;

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[1] Extended to other public property by Central Act XXXVI of 1837.
[2] The word "Native" was omitted by the Adaptation Order of 1950.

3*rd*, all persons not on the public establishment, whether being in the private service of a Collector, Sub-Collector or Assistant to a Collector, and pretending to act under his or their authority, or whether assuming the character of public officers, or acting or pretending to act under the authority or on behalf of revenue-servants or village-officers, who shall in any way interfere in the collection or disbursement of the public money, or who shall demand or receive money as public revenue, or as for revenue purposes, or shall exact or receive money or other valuable consideration under pretence of procuring some public act to be done, or some undue advantage to be given by public officers to the persons from whom such money or other valuable consideration shall have been taken.

Collectors empowered to summon witnesses and to require production of documents.

3. *First.*—Collectors shall have power to summon before them as witnesses all persons whose evidence may appear necessary to the due investigation of the cases referred to in this Regulation as well for as against the accused or suspected persons, and to require the production of documentary evidence. The summonses to be issued by Collectors for this purpose shall bear their official seal and signature, and shall specify the time and place of the witnesses' attendance; and, if reference to documentary evidence be required, the summonses shall contain a requisition to the witnesses in whose possession they may be to bring such documents along with them.

Second.—[*Procedure on refusal of witness to attend or give evidence.*] *Rep., Mad. Act II of* 1869.

Witnesses residing in other zilas to be examined by Judge of zila in which they reside.

Third.—If any witness whose evidence is required by a Collector shall reside out of the jurisdiction of the zila to which the Collector is amenable, the Collector shall transmit written interrogatories to the Judge of the zila in whose jurisdiction the witness may reside, who shall procure, the written answers of the witness to such interrogatories,[1] * * * and shall return the same to the Collector. Whenever a witness may be examined on interrogatories in conformity with the foregoing rule, whether on behalf of the Government or of the accused, the opposite party shall have the right of transmitting cross-interrogatories at the same time, and the answers of the witness thereto shall be taken and returned in like manner.

Cross-interrogatories.

Investigations under this Regulation to be summary.

4. The investigations which Collectors are authorized to make under this Regulation shall be summary [1] * * * . All documents produced in evidence shall be endorsed by the Collector with his signature or initials, and marked with the date of their production. A summary of the defence shall be recorded and the decision of the Collector, with a brief

[1] Certain obsolete words have been repealed by Central Act XII of 1876.

Rules of procedure.

statement of the grounds on which it is formed, shall be entered on the proceedings. [1]

Sentence which Collectors may pass on persons convicted of certain offences.

5. [2]*First.*—When persons of any of the descriptions mentioned in clause third, section 2 of this Regulation, shall be convicted before a Collector, or an inquiry conducted under this Regulation, of any of the offences of the first, second or third class specified in clause second of that section, the Collector shall have authority to sentence them to pay any sum not exceeding twice the amount of the money ascertained to have been extorted, unduly received, embezzled or misappropriated.

Convicted persons to be kept in custody until judgment has been satisfied.

Second.—After a judgment has been passed by a Collector for the payment of money under the foregoing clause, the person against whom such judgment has passed shall be kept in custody until that judgment shall have been satisfied, first, in the Collector's kacharí, and afterwards, if necessary, in the zila jail as hereinafter provided.

Judgments of Collectors how executed.

Third.—The judgments of Collectors for the recovery of money under the preceding clause shall be executed in the same manner as decrees of the Courts of Adalat, by a warrant under the official seal and signature of the Collector, which shall specify the name of the person against whom the judgment has passed, the date of the judgment on the Collector's proceedings, and the amount to be levied. In the execution of this warrant the property of the defaulter shall be seized wherever, or in whose possession soever, it may be found. If property, which there is good reason to believe belongs to the defaulter, be claimed by any other person, the same shall nevertheless be attached by the officer charged with the execution of the warrant. If the property so attached be moveable, it shall be brought before the Collector, or, if not moveable, a full report thereof shall be made to the Collector who will hold a summary inquiry on the claim preferred, or refer such inquiry to a Panchayat. If the property be proved to belong *bona fide* to the defaulter, a particular account of its nature and value shall be entered on the Collector's proceedings, after which he shall order it to be sold in like manner as the rest of the property attached under the warrant of execution.

Persons convicted of certain other offences how punishable.

Fourth.—When any of the before-mentioned persons shall be convicted of any of the offences of the fourth or fifth class specified in clause second, section 2 of this Regulation, the Collector shall impose such fine, not exceeding five hundred rupees, as may appear reasonable; and, in default of payment of such fine, he shall further sentence the offender to imprisonment for a period not exceeding twelve months, or until the said fine shall have been paid.

[1] As to powers of Board of Revenue, *see* Mad. Reg. III of 1823, s. 2, cl. 2.

[2] As to appeals from orders under this section and s. 6, *see* Mad. Reg. VII of 1828, s. 6.

When Collectors shall make specific demand.

6. In cases where no examination of witnesses may be necessary—as where money actually delivered in charge to a public servant has been embezzled, or is not forthcoming when called for, and the amount embezzled has been clearly ascertained by reference to the public accounts of the kachari —Collectors shall make in writing a demand of the specific amount due by such public servant, and, on his refusing or neglecting to satisfy the demand, shall proceed to recover the amount by distraint and sale of the defaulter's property, and, if necessary, by imprisonment of the defaulter's person, in the same manner as for the recovery of arrears of revenue.

Further procedure in such cases.

When Collectors may call on suspected persons to give security for fulfilment of judgment.

7. Whenever a Collector shall be about to institute an inquiry under this Regulation, if he shall have good reason to believe that the accused or suspected person has concealed or collusively transferred, or is about to conceal or collusively transfer, his property, for the purpose of evading such order or judgment as may eventually be passed after such inquiry, the Collector is hereby authorized to call on such person to give security to such amount as he may consider sufficient to provide for the fulfilment of the judgment that may be eventually passed; and, in default of good and sufficient security being given as required, he shall be authorized to attach the property of the accused or suspected person, and to hold the same in attachment until judgment shall have been passed in the said inquiry.

Procedure when security is not given.

The warrant of attachment to be issued in such cases shall follow the property of the accused or suspected person, wherever or in whose possession soever it may be found.

In the event of property seized under this section being claimed by any other person, the Collector shall proceed as directed in like cases in clause third, section 5 of this Regulation.

When Collector may issue proclamation requiring property of defaulters to be surrendered.

8. In all cases where an accused or suspected person has refused or neglected to deposit security, according to the Collector's requisition, as provided in section 7, and in all cases where a judgment has passed under the provisions of clause first, section 5 of this Regulation, as well as where a defaulter has failed to satisfy the public demand against him, made under the provisions of section 6 of this Regulation, it shall be competent to a Collector to issue a proclamation, requiring all persons holding property belonging to the defaulter to surrender the same to him within a specified period, not being less than fifteen days; after the publication of such proclamation, and after the expiration of such specified period, any person who may be convicted [1] * * of having fraudulently concealed or collusively received such property shall be sentenced [1] * * to pay a fine not exceeding three times the amount

Punishment for concealing such property.

[1] Certain obsolete words have been repealed by Central Act XII of 1876.

of the value of the property so fraudulently concealed or collusively received by such person, and to be imprisoned until such fine be paid.

The Criminal Judge shall levy the amount of the fine by the usual process, and in the event of the full amount of the fine not being realized, shall commit the offender to confinement in the zila jail; provided, however, that the period of confinement under this section shall in no case exceed twelve calendar months.

When Collectors may issue search-warrants for discovery of papers or accounts.

9. If information [1] * * shall be given before a Collector that revenue papers or accounts, or papers and accounts respecting frauds or embezzlements in the public revenue, have been fraudulently concealed and deposited in any particular premises, he shall be competent to issue warrants under his own official seal and signature, addressed to one or more public officers of his establishment, commanding search to be made on the premises for the discovery of such papers or accounts.

Search-warrants how executed.

Search-warrants thus issued shall be executed between sunrise and sunset only, and, where practicable, in the presence of two or more respectable inhabitants of the village in which the house or place authorized to be searched may be situated; a full and perfect list of all papers and other things whatsoever seized in virtue of such warrants shall be made out in duplicates on the spot; both copies shall be signed by the officer executing the warrant, and by the inhabitants or witnesses present; one copy of such list shall be given to the occupier of the house, or some person on his behalf, and the other shall be annexed to the warrant when returned to the Collector:

Provided, however, that nothing contained in these rules shall be construed to authorize any but female; to enter the zenana or apartments of the women in houses belonging to those classes whose women do not ordinarily appear in public.

Property how sold in satisfaction of judgments of Collectors.

10. Whenever it may be necessary to sell property in satisfaction of an order of judgment of the Collector under the provisions of this Regulation, the sale shall be conducted by the Tahsildár, or other public servant to whom the Collector may delegate that duty [1] * * *.

11. [*Judgment of Collector under s. 4 not to be executed till sanctioned by Board of Revenue.*] *Rep., Mad. Reg. III of* 1823.

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[1] Certain obsolete words have been repealed by Centra]Act XII of 1876.

Reimbursement of persons from whom money is unjustly received. Persons reporting exaction within two months to be repaid.

12. A discretionary authority shall be vested in Collectors, subject to the approval and sanction of the Board of Revenue, to pay to persons from whom money has been exacted or unjustly received the whole or such part of the sum recovered under the provisions of this Regulation as may appear proper on consideration of the circumstances of the case ; provided, moreover, that such persons shall be entitled in all cases to receive back whatever they may have so given to a public servant of Government, if they shall inform the Collector, Subordinate Collector or Assistant of such exaction or undue receipt of money within two months after its payment or delivery by the said informants.

Persons against whom inquiry is going on may be kept under restraint.

13. *First.*—Collectors are authorized to keep under restraint any persons against whom they may have instituted an inquiry under the provisions of this Regulation, either by placing peons over the dwelling-house of any such persons, to prevent their escape, or, if necessary, by confinement in the kacharí ; and, if judgment be given against such persons, then to continue the restraint until the amount adjudged has been paid by them, or the amount realized by sale of the property attached in satisfaction of the order or judgment.

When defaulters may be imprisoned.

Second.—In the event of no property of a person against whom an order or judgment has been passed under this Regulation being forthcoming, or not sufficient to pay the amount due by him, the Collector shall forward the defaulter or offender to the Zila Court, and shall at the same time furnish the Government vakil of the said Court with instructions to present a motion to the Judge for his confinement until the amount due, which shall be distinctly stated in the said motion, shall have been discharged, or until the Collector shall again move the Court for his release. The Zila Judge shall receive such motion whether in or out of Court, and shall order the confinement of the party accordingly, and the Judge shall not discharge him from confinement except on his paying the full amount mentioned in the Collector's motion, or on application from the Collector.

14. [*Appeals to Governor in Council.*] *Rep., Mad. Reg. VII of* 1828, *s.* 5.

[1] [**15.** * * * * * *]

Suits grounded on proceedings of Collector when receivable by Court.

[2] **16.** No suit grounded on the summary proceedings of a Collector under this Regulation, either in the form of an original complaint against such Collector, on account of any supposed injustice in conducting such proceedings, or of an appeal from his judgment, shall be received by any Court of Adalat, unless the plaint or petition is accompanied by the

[1] This section was omitted by s. 2 of the Madras Revenue (Miscellaneous Amendments) Act, 1936 (Madras Act VIII of 1936).

[2] The provisions of this section are supplemented by Mad. Reg. III of 1832, s. 2.

order referred to in *clause second, section* 14 *of this Regulation,* [1] remitting the party complaining to seek his redress in the Courts of Adalat.

17 & 18. [*Powers of Criminal Judges and Courts of Circuit.*] *Rep., Central Act XII of 1876.*

19. [*Repeal of Regulation XXXIII of 1802.*] *Rep., Mad. Act II of 1869.*

MADRAS REGULATION III OF 1823.[2]

[THE MADRAS REVENUE MALVERSATION (AMENDMENT) REGULATION, 1823.]

[*8th August 1823.*]

[3] A Regulation to supplement the provisions of the Madras Revenue Malversation Regulation, 1822.

Preamble.

WHEREAS the reference to the Board of Revenue required by section 11, Regulation IX of 1822, to be made by Collectors before any judgment passed by them under section 4 of that Regulation can be carried into execution, has been found inconvenient in practice and otherwise objectionable, and it is expedient that the said rule be rescinded, and that the Board of Revenue be vested with general power to suspend the execution of any judgment so passed which to them may seem improper; the Honourable the Governor in Council has been pleased to enact the following rules * * *.[4]

2. *First.*—[*Repeal of Regulation IX of 1822, section* 11.] *Rep., Mad. Act II of 1869.*

Collectors' reports of judgments passed by them under Regulation IX of 1822.

Second.—Collectors will transmit such periodical or occasional reports of judgments passed under section 4 of the above-quoted Regulation as the Board of Revenue may direct. And it shall be competent to the Board of Revenue, whenever they may see fit, to order that any such judgment be not carried into execution, and to pass such further order on the case as to them may seem equitable and just.

3. [*Powers of Assistant and Subordinate Collectors under Regulation IX of* 1822.] *Rep., Mad. Reg. VII of* 1828, *s.* 2.

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[1] For the words in italics now read "clause second, section 6 of Regulation VII of 1828" —*see* Mad. Reg. III of 1832, s. 2.

[2] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

The Regulation has been declared not to apply to the East Godavari Agency by notification under sub-section (2) of section 52-A of the Government of India Act—*see Fort St. George Gazette*, 1930, Pt. I, p. 1392.

[3] This title was substituted for the original title by the Repealing and Amending Act, 1901 (Central Act XI of 1901)—s. 3 and the second schedule.

[4] Certain obsolete words have been repealed by Central Act XII of 1876.

MADRAS REGULATION VII OF 1828.[1]

[THE MADRAS SUBORDINATE COLLECTORS AND REVENUE MALVERSATION (AMENDMENT) REGULATION, 1828.]

[*18th April 1828.*]

A Regulation for declaring the powers of Subordinate and Assistant Collectors in charge of particular divisions of districts, and for facilitating proceedings under Regulation IX, 1822.

Preamble.

WHEREAS the efficient discharge of the functions of Collectors requires that Subordinate and Assistant Collectors should be empowered to exercise within their divisions all the powers of the Collector, but subject, nevertheless, to their revision and correction; and further, that Collectors should have authority to refer for investigation, under certain restrictions, to their sarishtadárs and deputy sarishtadárs when absent from the huzur kachari, and also to their tahsildárs within their respective tahsildárís, certain of the cases cognizable by themselves under Regulation IX, 1822; and also that petitions of appeal against judgments and orders passed under the same Regulation should be preferred within a limited time, and should be finally decided upon by the Board of Revenue instead of the Governor in Council as at present; therefore the Governor in Council has enacted this Regulation * * *.[2]

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[1] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

The whole Regulation has been declared, under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Rampa Country—*see* Notification No. 1151, *Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid.*, p. 723.

The whole Regulation, except s. 6, has been declared, by notification under s. 3 (*a*) of the same Act, to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette, ibid.*, p. 666.

Section 6 of the Regulation has been declared, by notification under s. 3 (*b*) of the same Act, not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 872, and *Fort St. George Gazette, ibid.*, p. 667.

The whole Regulation has been extended, by notification under s. 5 of the last-mentioned Act, to the taluks of Bhadrachalam and Rakapilli—*see* Notification No. 1150, *Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid.*, p. 722.

The Regulation is in force in the Nugur taluk of the East Godavari District in virtue of section 2 (1) of Regulation I of 1909.

The Regulation has been declared by a notification under s. 3, clause (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

[2] Certain obsolete words have been repealed by Central Act XII of 1876.

2. [*Repeal of Regulation III of* 1823, *s.* 3.] *Rep., Mad. Act II of 1869.*

Powers exercisable *ex officio* by Subordinate Collector in charge of division.

3. *First.*—A Subordinate or Assistant Collector[1] in charge of a particular division of a district shall *ex officio* have authority to exercise within the division under his charge all the powers granted to Collectors by the Regulations now in force, or that may be hereafter enacted, unless the contrary shall be expressly declared in any Regulation.

Authority of Collectors to delegate powers.

Second.—Collectors shall have authority to delegate, at their discretion, in writing under their official signature, any of the powers granted to them by any Regulation now in force, or that may be hereafter enacted, to any of their Subordinates or Assistants not in charge of a particular division of a district or to any of their Subordinates or Assistants in charge of a particular division beyond the limits of the division under his charge.

Controlling powers of Collectors.

Third.—The proceedings of Subordinate and Assistant Collectors acting under the preceding clauses shall be subject, in all cases, and in the fullest manner, to the superintendence, control and revision of the Collector, who shall have power either to direct, generally, that the proceedings of any of his Subordinates or Assistants shall be regularly submitted to himself before the decision, order or sentence is carried into execution, and to confirm, modify or annul them, or issue any further orders in the cases, as he may see fit; or in any particular case to direct that the decision, order or sentence of any of his Subordinates or Assistants shall not be carried into execution, and to pass such further orders as he may see fit.

Cases which officers may be employed to investigate.

4. *First.*—Collectors are empowered, at their discretion, to refer for investigation to their sarishtadars and deputy sarishtadars when detached from the huzur kachari, and also to their tahsīldárs, within their respective tahsildaris, all cases of a petty nature cognizable by themselves under Regulation IX, 1822.

Their powers when so employed.

Second.—[2] [ ] Officers employed under the preceding clause shall have the same powers as are granted to Collectors by clause first, section 3, Regulation IX, 1822; but witnesses shall not be examined by them on oath.

Procedure when persons summoned by them do not attend, etc.

Third.—If any person duly summoned by them shall not attend as required, or attending shall refuse to give evidence, or if any person whose evidence is required shall reside out of the limits of the collectorate, the [2] [ ] officer employed shall report the circumstance to the Collector, who shall

[1] For meaning of expressions "Subordinate Collector" and "Assistant Collector"—*see* Mad. Act VII of 1914, s. 4.

[2] The word "Native" was omitted by the Adaptation Order of 1950.

proceed thereupon in the manner required by clauses second and third, section 3, Regulation IX, 1822.

Their proceedings.

Fourth.—[1][ ] Officers employed under this section shall take down in writing all the evidence given before them, and shall transmit their original proceedings to the Collector, who shall thereupon pass sentence, or order further evidence to be taken if he deem it necessary; provided always that Collectors shall not have authority to pass sentence against a party convicted, on an inquiry by any of the [1][ ] officers above mentioned of any of the offences of the first, second or third class specified in clause second, section 2, Regulation IX, 1822, adjudging him to pay a sum exceeding fifty rupees, or to impose a fine exceeding that amount upon a party convicted, on such an inquiry, of any of the offences of the fourth or fifth class specified in the same clause and section.

Restruction on Collector's power to pass sentence.

5. [*Repeal of portions of Regulation IX of 1822.*] *Rep., Mad. Act II of 1869.*

Appeal against decisions of Collectors.

6. *First.*—Whenever a person against whom a judgment or order shall have passed under the provisions of section 5 or section 6, Regulation IX, 1822, shall conceive himself aggrieved by such decision, he shall be at liberty at any time within three months from the date of such judgment or order, to present to the Collector a petition of appeal addressed to the Board of Revenue, which petition the Collector shall forthwith forward to the Board. The petition shall be written on unstamped paper, and shall state the grounds on which the petitioner deems himself aggrieved and the redress or relief to which he considers himself entitled.

Board of Revenue how to proceed on appeals.

Second.—On receipt of such petition the Board of Revenue, after making such inquiry as they may judge necessary, will either direct the relief prayed for by the petitioner to be granted, [2]* * * * * * , or [3]* * reject the petition by endorsement under the hand of their secretary, referring the party complaining to seek redress, if he thinks proper, in the established Courts of Adálat.

Third.—[4][* * * * *]

7. [*Disposal of pending appeals.*] *Rep., Central Act XII of* **1876.**

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[1] The word "Native" was omitted by the Adaptation Order of 1950.

[2] The words "or will report the case for the orders of the Governor in Council" were omitted by section 3 (i) of the Madras Revenue (Miscellaneous Amendments) Act, 1936 (Mad. Act VIII of 1936).

[3] The words "will simply" were omitted by section 3 (i), *ibid.*

[4] This clause was omitted by section 3 (ii), *ibid.*

MADRAS REGULATION V OF 1829.[1]

[THE MADRAS HINDU WILLS REGULATION, 1829.]

[*25th August 1829.*]

A Regulation for modifying section 16, Regulation III, 1802, and for declaring the legal force of Wills left by Hindus within the territories subject to the Presidency of Fort St. George to be dependent on their conformity to the Hindu Law, according to the Authorities prevalent in the respective [2][territories] under this Government.

Preamble. WHEREAS [3] * * * * [4][clause second of section 16 of the Madras Administration of Estates Regulation, 1802,[5]] directs that, on the death of a Hindu leaving a will, his executors "are to take charge of the estate of the deceased and proceed in the execution of their trust according to the will of the deceased and the laws and usages of the country"; and whereas this [3] * * enactment is at variance both with the Hindu Law, according to the Authorities prevalent within these territories, and with the * * [3] obligation imposed on the Courts to administer justice to the [6][inhabitants] in the said matters according to their own laws, and it is therefore expedient that the same should be modified, the Governor in Council has therefore enacted this Regulation * * *.[7]

2. [*Repeal of Regulation III of 1802, s. 16, cl. 2, so far as it applies to Hindus.*] *Rep., Mad. Act II of 1869.*

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[1] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette, ibid.*, p. 666. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Regulation has been declared by a notification under s. 3, cl. (*a*) of the Scheduled Districts Act to be in force in Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

[2] This word was substituted for the word "Provinces" by the Adaptation Order of 1950.

[3] Certain words and figures, repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901), s. 3, are omitted.

[4] These words and figures were substituted for the words "clause second of the said section" by the Repealing and Amending Act, 1901 (Central Act XI of 1901), s. 3, and the second schedule.

[5] Madras Regulation III of 1802.

[6] This word was substituted for the word "Natives" by the Adaptation Order of 1950.

[7] Certain obsolete words have been repealed by Central Act XII of 1876

3. The rules contained in clauses third, fourth, fifth, sixth and seventh, section 16, Regulation III, 1802 * * * [1] respecting the estates of Hindus dying intestate, are hereby declared equally applicable to the cases of Hindus dying and leaving wills. Rules applicable to estates of Hindus dying and leaving wills

4. Wills left by Hindus within the territories subject to this Government shall have no legal force whatever, except so far as their contents may be in conformity with the provisions of the Hindu law, according to the Authorities prevalent in the respective [2][territories] under this Presidency. Wills of Hindus to be in conformity to Hindu Law.

MADRAS REGULATION I OF 1830.[3]

[THE MADRAS SATI REGULATION, 1830.]

[*2nd February 1830.*]

A Regulation for declaring the practice of Sati, or of burning or burying alive the Widows of Hindus, illegal, and punishable by the Criminal Courts.

THE practice of sati, or of burning or burying alive the widows of Hindus, is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindus as an imperative duty; on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and by a vast majority of that people throughout India the practice is not kept up nor observed; in some extensive districts it does not exist; in those in which it has been most frequent it is notorious that in many instances acts of atrocity have been perpetrated which have been shocking to the Hindus themselves, and in their eyes unlawful and wicked. The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without Preamble.

[1] Madras Regulation III of 1802.

[2] This word was substituted for the word "Provinces" by the Adaptation Order of 1950.

[3] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act. Compare Ben. Reg. XVII of 1829.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette, ibid.*, p. 666. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Regulation has been declared by a notification under s. 3, cl. (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

abolishing the practice altogether. Actuated by these considerations the Governor in Council, without intending to depart from one of the first and most important principles of the system of [1][ ] Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity, has deemed it right to establish the following rules, which are hereby enacted, to be in force * * [2] throughout the territories immediately subject to the Presidency of Fort St. George.

Sati declared illegal and punishable.

2. The practice of sati, or of burning or burying alive the widows of Hindus, is hereby declared illegal, and punishable by the Criminal Courts.

Zamindars, etc., responsible for immediate communication to police of intended sacrifice.

3. *First.*—All zamindárs, talukdars or other proprietors of land, whether malguzári or lakhiráj, all sadr farmers and under-renters of land of every description, all dependent talukdars, all naibs and other local agents, all [3][ ] officers employed in the collection of the revenue and rents of lands on the part of Government or the Court of Wards, and all headmen of villages, are hereby declared especially accountable for the immediate communication to the officers of the nearest police-station of any intended sacrifice of the nature described in the foregoing section; and any zamindár, or other description of persons above noticed, to whom such responsibility is declared to attach, who may be convicted of wilfully neglecting or delaying to furnish the information above required, shall be liable to be fined by the Magistrate or Joint Magistrate in any sum not exceeding two hundred rupees, and, in default of payment, to be confined for any period of imprisonment not exceeding six months.

Penalty in case of neglect.

Police how to act on receiving intelligence of intended sacrifice.

Second.—Immediately on receiving intelligence that the sacrifice declared illegal by this Regulation is likely to occur, the head of police shall either repair in person to the spot, or depute one of the subordinate officers, accompanied by one or more peons [4][ ], and it shall be the duty of the Police-officers to announce to the persons assembled for the performance of the ceremony that it is illegal, and to endeavour to prevail on them to disperse, explaining to them that, in the event of their persisting in it, they will involve themselves in a crime and become subject to punishment by the Criminal Courts. Should the parties assembled proceed, in defiance of these remonstrances, to carry the ceremony into effect, it shall be the duty of the Police-officers to use all lawful means in their power to prevent the sacrifice from

[1] The word "British" was omitted by the Adaptation Order of 1950.
[2] Certain unnecessary words have been repealed by Central Act XII of 1876.
[3] The word "Native" was omitted by the Adaptation Order of 1950.
[4] The words "of the Hindu religion" were omitted by *ibid.*

taking place, and to apprehend the principal persons aiding and abetting in the performance of it; and, in the event of being unable to apprehend them, they shall endeavour to ascertain their names and places of abode, and shall immediately communicate the whole of the particulars to the Magistrate or Joint Magistrate for his orders.

How to act when intelligence of sacrifice does not reach them until after it has taken place.

Third.—Should intelligence of a sacrifice, declared illegal by this Regulation, not reach the Police-officers until it shall have actually taken place, or should the sacrifice have been carried into effect before their arrival at the spot, they will nevertheless institute a full inquiry into the circumstances of the case, in like manner as on all other occasions of unnatural death, and report them for the information and orders of the Magistrate or Joint Magistrate to whom they may be subordinate.

Magistrate how to proceed against parties concerned.

4. *First.*—On the receipt of the reports required to be made by the heads of police under the provisions of the foregoing section, the Magistrate or Joint Magistrate of the jurisdiction in which the sacrifice may have taken place, shall inquire into the circumstances of the case, and shall adopt the necessary measures for bringing the parties concerned in promoting it to trial * *.[1]

Persons abetting sacrifice guilty of culpable homicide.

Second.—It is hereby declared that, after the promulgation of this Regulation, all persons convicted of aiding and abetting in the sacrifice of a Hindu widow, by burning or burying her alive, whether the sacrifice be voluntary on her part or not, shall be deemed guilty of culpable homicide, and shall be liable to punishment by fine or by imprisonment, or by both fine and imprisonment, * * [1] according to the nature and circumstances of the case, and the degree of guilt established against the offender; nor shall it be held to be any plea of justification that he or she was desired by the party sacrificed to assist in putting her to death.

Discretion of Judge to admit to bail or not.

Third.—Persons committed to take their trial * * [1] for the offence above mentioned shall be admitted to bail or not at the discretion of the Criminal Judge, subject to the general rules in force in regard to the admission of bail.

Court of Fauzdari Adalat may pass sentence of death in certain cases.

5. It is further deemed necessary to declare that nothing contained in this Regulation shall be construed to preclude the Court of Fauzdári Adálat from passing sentence of death on persons convicted of using violence or compulsion, or of having assisted in burning or burying alive a Hindu widow [2] while labouring under a state of intoxication or stupefaction, or other cause impeding the exercise of her free will, when, from the aggravated nature of the offence proved against the prisoner, the Court may see no circumstances to render him or her a proper object of mercy.

[1] Certain unnecessary words have been repealed by Central Act XII of 1876.

[2] "Woman" in Clarke's edition.

MADRAS REGULATION V OF 1831.[1]

[THE MADRAS STAMP PENALTIES REGULATION, 1831.]

[*24th May 1831.*]

A Regulation to modify and amend the provisions in force for the recovery of the penalties prescribed for certain breaches of the stamp laws.

1 to 6. [*Recital of inconvenience of recovery of certain fiscal penalties by civil suit only: penalties to be recoverable by criminal prosecution: procedure to be adopted by Magistrates: mode of levying penalties: trial* ex parte *revision by Courts of Circuit and Court of Fauzdari Adalat.*] *Rep., Mad. Act II of* 1869.

7. *First.*—[*Repeal of Regulation XIII of* 1816, *s.* 19, *cl.* 2.] *Rep., Mad. Act II of* 1869.

Recovery of fine for filing document not written on prescribed stamp.

Second.—Whenever a petition, pleading or other document, which may not have been written on the prescribed stamp, shall be filed in any Court of Justice or in the office of any Collector or other public officer, or whenever it shall appear that a copy of any paper or proceeding shall have been furnished on paper not bearing the prescribed stamp, the Judge or Judges of the Court, the Collector or other public officer shall call upon the ministerial officer by whom such petition or other document was filed, or by whom such copy shall have been furnished, to show cause why the prescribed fine should not be imposed upon him; and on his failure to show good cause shall forthwith proceed in the ordinary manner to levy from him the penalty prescribed.

8. [*Foregoing provisions not to be retrospective.*] *Rep., Mad. Act II of* 1869.

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[1] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

Section 7, cl. 2 of this Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), section 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Schedule Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette, ibid.*, p. 666. It has also been declared by notification under the same section to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Regulation has been extended by a notification under section 5 of the Scheduled Districts Act, 1874, to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

MADRAS REGULATION X OF 1831.[1]

[THE MADRAS SALE OF MINORS' ESTATES REGULATION, 1831.]

[*2nd September 1831.*]

A Regulation to prohibit the sale of estates belonging to Minors not under the charge of the Court of Wards, and to extend the provisions of section 20, Regulation V, 1804, to property of every description not subject to the jurisdiction of that Court.

Preamble.

WHEREAS doubts have been entertained as to the liability of the estate of a minor not taken under the management of the Court of Wards, to be sold for arrears of revenue; and whereas it is considered expedient, for the due protection of the property of minors and other incapacitated persons, that the provisions of section 20, Regulation V, 1804, should be extended to property of every description not subject to the jurisdiction of that Court, the following rules have been enacted * * *.[2]

Minor's property not to be sold for arrears accruing after his accession.

2. *First.*—From and after the date of the promulgation of this Regulation, no estate, the property of a minor, and descended to him by the regular course of inheritance, not under the charge of the Court of Wards, shall, during his minority, be sold for arrears of revenue accruing subsequently to his accession to the same.

Court of Wards may take charge of estates at any time during minority.

Second.—It shall be competent to the Court of Wards to assume charge of such estates at any time during the minority of the proprietor, notwithstanding they may have originally refrained from interfering.

3. [*Provisions extended to all property not subject to Court of Wards.*] *Rep. by the Guardians and Wards Act,* 1890 (*Central Act VIII of* 1890), *s.* 2 *and schedule.*

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[1] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Rampa Country—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid.*, p. 723.

It has been extended by notification under s. 5 of the same Act, to the taluks of Bhadrachalam and Rakapilli—*see Gazette of India*, 1879, Pt. I, p. 630, and *Fort St. George Gazette, ibid.*, p. 722. The Regulation is in force in Nugur taluk of the East Godavari district in virtue of s. 2 (1) of Regulation I of 1909. The Regulation has been extended by a notification under s. 5 of the Scheduled Districts Act to the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

Section 3 of this Regulation will cease to be in force in the portions of the Scheduled Areas in the East Godavari, West Godavari and Vizagapatam districts to which the Guardians and Wards Act, 1890, has been extended by the Madras (Partially Excluded Areas) Guardians and Wards Regulation, 1940 (Regulation VI of 1940)—*see* s. 3 of and the Schedule to that Act.

[2] Certain unnecessary words have been repealed by Central Act XII of 1876.

MADRAS REGULATION III OF 1832.[1]

[THE MADRAS REVENUE MALVERSATION (AMENDMENT) REGULATION, 1832.]

[*2nd March 1832.*]

A Regulation for limiting the period within which complaints or appeals preferred under section 16, Regulation IX, 1822, shall be admissible in the Courts of Adálat.

Preamble.

WHEREAS by clause first, section 6, Regulation VII, 1828, a petition of appeal to the Board of Revenue against a judgment or order passed under the provisions of section 5 or section 6, Regulation IX, 1822, is required to be preferred within the limited period of three months from the date of such judgment or order, but no limitation is prescribed as to the time within which a party who has preferred an appeal accordingly, and has been referred, under clause second of the same section, to seek redress in the established Courts of Adálat, may apply to such Courts; and it is deemed expedient to supply this omission, and to limit the time within which a complaint or appeal preferred under section 16, Regulation IX, 1822, shall be admissible in the Courts of Adálat to the same period of three months, the Governor in Council has been pleased to enact the following Regulation, to be in force from the date of its promulgation.

Limitation of suits and appeals under section 16, Reg. IX, 1822.

2. In modification of section 16, Regulation IX, 1822, it is hereby provided that no suit, either in the form of an original complaint, or of an appeal, shall be received in any Court of Adálat under that section, unless the plaint or petition is accompanied by the order referred to in clause second, section 6, Regulation VII, 1828, under the hand of the Secretary to the Board of Revenue, and is preferred within three months from the date of the delivery of the order.

Date of delivery to be certified.

3. The date of the delivery of the order is to be certified by the officer delivering it by an endorsement on the petition on which the order is written.

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[1] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Regulation was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), section 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has been declared by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Scheduled Districts in Gangam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette, ibid.*, p. 666.

PART II.

UNREPEALED CENTRAL ACTS OF LOCAL APPLICATION IN FORCE IN THE STATE OF MADRAS.

ACT No. XXXVI OF 1837.[1]

[THE MADRAS PUBLIC PROPERTY MALVERSATION ACT, 1837.]

[*20th November 1837.*]

Extension of jurisdiction of Collectors and their subordinates in cases of embezzlement, etc., to similar offences by persons of certain classes.

1. * * * [2]The jurisdiction vested in Collectors, Subordinate Collectors and Assistant Collectors, by Regulations IX of 1822 and VII of 1828 of the Madras Code, in cases of embezzlement of public money, and of the falsification, destruction or concealment of any public account, record, voucher or document relating to public money, shall extend to cases of the embezzlement of any public property or the falsification, destruction or concealment of any public account, record, voucher or document, relating to any public property, by any person of any of the classes described in the third clause of section 2 of the said Regulation IX of 1822.

Extension of enactments relating to embezzlement, etc., to similar offences by persons of certain classes.

2. * * * * [3]All provisions of either of the said Regulations IX of 1822 and VII of 1828, which apply to cases of the embezzling of public money, shall apply to cases of the embezzling of public property whatever, by persons of any of the classes described in the third clause of section 2 of the said Regulation IX of 1822: * * [3]all provisions of

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[1] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Act was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It has also been declared, under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 869, and *Fort St. George Gazette*, 1898, Pt. I, p. 666. The Act has been extended by a notification under s. 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Act has been declared by a notification under s. 3, cl. (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

[2] The words and figures "It is hereby enacted, that from the fifteenth day of December, 1837," were repealed by the Repealing Act, 1870 (Central Act XIV of 1870).

[3] The words "It is hereby enacted that" and the words "and that" in the second clause were repealed by the Repealing Act, 1874 (Central Act XVI of 1874), and the words "from the said day," which occurred immediately before the opening words of the section as it now stands, were repealed by the Repealing Act, 1870 (Central Act XIV of 1870).

either of those Regulations, which apply to cases of the falsification, destruction or concealment of any public account, record, voucher or document relating to public money, shall apply to cases of the falsification, destruction or concealment of any public account, record, voucher or document, relating to any public property whatever, by persons of any of the said classes.

ACT No. VII OF 1839.[1]

[THE MADRAS RENT AND REVENUE SALES ACT, 1839.]

[*18th March 1839.*]

1. [*Repeal of Reg. XXVIII of* 1802, *s.* 23.] *Rep., Central Act XIV of* 1870.

Tahsildars empowered to sell property distrained.

2. [2] * * * All tahsildars within the territories subject to the Presidency of Fort St. George shall be vested with the powers of Commissioners for the sale of property distrained for arrears of rent or of revenue, and shall be subject to all rules and provisions to which by any law or regulation such Commissioners are subject.

Control of tahsildars in exercise of such power.

3. Provided always that in respect of the exercise of those powers tahsildars shall be subject to the control and superintendence of the Collector, and shall not be subject to the authority of the Zila Judge, except in the case of any judicial proceedings.

4. [*Their liabilities in exercise of same power.*] *Rep. by the Repealing and Amending Act,* 1891 (*Central Act XII of* 1891).

Fees for selling property to be credited to Government.

5. Provided also that tahsildars shall not be entitled to any fee or commission for selling such distrained property; but that all fees or commission which may be now lawfully taken by Commissioners for the sale of such distrained property shall be taken and carried to the account of Government.

Delegation of Tahsildar's powers.

6. And it is hereby enacted that tahsildars shall have authority, subject to the orders of the Collector, to delegate the powers vested in them by the second section of this Act to any public servants placed under their authority; and that the provisions of [3] [sections 3 and 5] of this Act shall apply

[1] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Act was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

It was extended, under s. 5 of the Scheduled Districts Act, 1874, to the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India,* 1898, Pt. I, p. 872; and to the Scheduled Districts in East Godavari except the Nugur taluk—*see ibid.*, 1910, Pt. I, p. 1161.

[2] The words "And it is hereby enacted that from the said day" were repealed by the Repealing Act, 1873 (Central Act XII of 1873).

[3] These words and figures have been substituted for the words "the three last preceding sections" by the Amending Act, 1891 (Central Act XII of 1891).

to all public servants to whom those powers shall have been so delegated in the same manner as they apply to tahsildars.

ACT No. XXIV OF 1839.[1]

[THE GANJAM AND VIZAGAPATAM ACT, 1839.]

[*2nd October 1839.*]

An Act for the administration of justice and collection of the revenue in certain parts of the districts of Ganjam and Vizagapatam.

1. [*Repeal of Central Act XXIII of* 1836.] *Rep. by the Repealing Act*, 1870 (*Central Act XIV of* 1870).

2.[2] * * * The operation of the rules for the administration of civil and criminal justice, as well as those for the collection of the revenue, shall cease to have effect, except as hereinafter mentioned, within the undermentioned tracts of country at present included in the districts of Ganjam and Vizagapatam :— Exemption of districts from certain rules.

IN THE DISTRICT OF GANJAM.

Zamīndārīs.	*Zamīndārīs*—cont.
Paluru.	Budarasangi.
Humma.	Dharakota.
Biridi.	Bodagada.
Kallikota.	Sherugada.
Pratapagiri.	Tarla.
Mohari.	Parlakimidi.
Vijayanagaram.	
Hathagada.	*Amāni Estates.*
Brahmanorachi.	
Chikati.	Gumsara.
Mandasa.	Surada.
Surangi.	Aska.
Jarada.	Pornary (*leg.* Komari?).
Jalantra.	Kurla.

IN THE DISTRICT OF VIZAGAPATAM.

Ancient Zamīndārīs.

Vijayanagaram.	Bobbili.

[1] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

Sections 3 to 7 of this Act have been extended to the Scheduled Areas in the West Godavari district by the West Godavari (Ganjam and Vizagapatam Act Extension) Regulation, 1942 (Regulation V of 1942).

[2] The words "And it is hereby enacted, that from and after the said first day of December 1839," were repealed by the Repealing Act, 1874 (Central Act XVI of 1874).

Hill Zamīndārīs.	*Hill Zamīndārīs*—cont.
Jayapuram.	Saluru.
Kurubham.	Madugula.
Sangamvalasa.	Belgam.
Chemudum.	Merangi.
Pachipenta.	*Under Amāni.*
Andhram.	Palakonda.
Sarvapalli-bhimavaram.	Golakonda.

Administration of civil and criminal justice in those districts.

3. * * * * [1] The administration of civil and criminal justice (including the superintendence of the Police), and the collection and superintendence of the revenues of every description within the tracts of country specified in the foregoing [2] [section which are included in any district shall be vested in the Collector of that district, and shall be exercised by him as Agent for the State Government concerned.]

Power to prescribe rules for Government Agents.

4. * * * * [1] It shall be competent to the [3] [State Governments respectively concerned] to prescribe such rules as [4] [they] may deem proper for the guidance of such Agents, and of all the officers subordinate to their control and authority, and to determine to what extent the decision of the Agents in civil suits shall be final, and in what suits an appeal shall lie to the [5] [High Court], and to define the authority to be exercised by the Agents in criminal trials, and what cases [6] [he] shall submit for the decision of the [7] [High Court].

Judgment in criminal trials referred to High Court by Agents.

5. * * * * [1] Upon the receipt of any criminal trials referred by [8] [any] of the Agents under the rules which may be hereafter prescribed by the [9] [State Government], the [7] [High Court] shall proceed to pass a final judgment, or such other order as may, after mature consideration, seem to the

[1] In sections 3 to 8, the words "And it is hereby enacted that" were repealed by the Repealing Act, 1874 (Central Act XVI of 1874).

[2] The words "section which are included in any district shall be vested in the Collector of that district, and shall be exercised by him as Agent for the Provincial Government concerned" were substituted for the words "section which are now included in the district of Ganjam, shall be vested in the Collector of Ganjam, and within those which are now included in the district of Vizagapatam in the Collector of Vizagapatam and shall be exercised by them respectively as Agents to the Governor of Fort St. George" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] The words "Provincial Governments respectively concerned" were substituted for the words "Governor in Council of Fort St. George, by an order in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] This word was substituted for the word "he" by the Adaptation Order of 1937.

[5] These words were substituted for the words "Sadr Adalat" by *ibid.*

[6] *Sic* read "they".

[7] These words were substituted for the words "Fauzdari Adalat" by the Adaptation Order of 1937.

[8] This word was substituted for the word "either" by the Adaptation Order of 1937.

[9] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for the word "Provincial" by the Adaptation Order of 1950.

Court requisite and proper, in the same manner as if the trial had been sent up in ordinary course from a Judge on circuit.

Appeals to High Court from decrees of Agents.

6. * * * * [1] Upon the receipt of any appeal from a decree of [2] [any] of the Agents, under the rules to be prescribed as aforesaid, the [3] [High Court] shall proceed to try and determine it in the same manner as appeals from the [4] [State] Courts.

Commitments by Agents.

7. * * * * [1] Each of such Agents as aforesaid shall have the power of making commitments by warrant under his hand which is possessed by the [5] [State Government] by virtue of Regulation II of 1819 of the Madras Code [6] [or Regulation III of 1818 of the Bengal Code as the case may be]: Provided, that the third * * [7] fifth, sixth and seventh sections of [8] [those Regulations respectively] shall remain in force and be applicable to commitments under this Act: Provided also that, in every case in which [9] [the Agent] shall make any such commitment, he shall transmit immediately a report to the [10] [State Government] for [11] [their] orders.

Report of commitments.

Power to alter limits of tracts.

8. * * * [1] It shall be competent to the [12] [State Government, by order] to make, from time to time * * * * [13] such alterations in the limits of the tracts within the aforesaid districts placed under the jurisdiction of the said Agents, respectively, as [14] [they] may deem expedient. [15]

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[1] In sections 3 to 8, the words "And it is hereby enacted that" were repealed by the Repealing Act, 1874 (Central Act XVI of 1874).

[2] This word was substituted for the word "either" by the Adaptation Order of 1937.

[3] These words were substituted for the words "Court of Sadr Adalat" by *ibid.*

[4] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

[5] The words "Provincial Government" were substituted for the words "Governor of Fort St. George in Council" by the Adaptation Order of 1937 and the word "State" was substituted for the word "Provincial" by the Adaptation Order of 1950.

[6] These words and figures were inserted by the Adaptation Order of 1937.

[7] The word "fourth" was repealed by the Repealing and Amending Act, 1891 (Central Act XII of 1891).

[8] These words were substituted for the words "that Regulation" by the Adaptation Order of 1937.

[9] These words were substituted for the words "either of such Agents" by *ibid.*

[10] The words "Provincial Government" were substituted for the words "Governor in Council of Fort St. George" by the Adaptation Order of 1937 and the word "State" was substituted for the word "Provincial" by the Adaptation Order of 1950.

[11] This word was substituted for the word "his" by the Adaptation Order of 1937.

[12] The words "Provincial Government, by order" were substituted for the words "Governor in Council of Fort St. George, by an order in Council" by the Adaptation Order of 1937 and the word "State" was substituted for the word "Provincial" by the Adaptation Order of 1950.

[13] The words "with the previous sanction of the Governor-General of India in Council" were repealed by Madras Act I of 1865.

[14] This word was substituted for the word "he" by the Adaptation Order of 1937.

[15] For an instance of such an alteration, see *Fort St. George Gazette*, 1863, p. 946.

ACT No. X OF 1849.[1]

[THE MADRAS REVENUE COMMISSIONER ACT, 1849.]

[*26th May 1849.*

An Act for appointing a Commissioner of Revenue at Madras.

Preamble.

WHEREAS it is expedient that the Governor of Fort St. George in Council should be empowered to depute a Member of the Board of Revenue to perform in any of the districts of that Presidency all or any of the duties which, by the general Regulations and laws of the Presidency, belong to the Board of Revenue collectively; It is enacted as follows :—

Power to depute Member to perform duties of Board.

1. The [2][State Government of Madras] may, from time to time whenever [3][they] shall see fit, depute a Member of the Board of Revenue to perform alone, in any of the districts of that Presidency, all or any of the duties which, by the general Regulations and laws of the Presidency, belong to the Board of Revenue collectively.

Powers of Member so deputed.

2. When a special commission shall be given to a Member of the Board of Revenue under this Act, the Member of the Board named therein shall, by virtue thereof, be empowered to exercise, within the limits of his commission, all the powers and duties which by law are vested in the Board of Revenue collectively, without exception, or subject to any exceptions or restrictions which shall be prescribed in such commission; and all Regulations and Acts concerning the Board of Revenue shall be deemed to apply to the said Commissioner within the limits of his commission, and with regard to all things concerning the revenues of the district included in it, so far as is necessary to give full effect to his commission and to this Act.

Enactments applied to Commissioner.

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[1] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Act was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

The Act has been declared by a notification under s. 3, cl. (*b*) of the Scheduled Districts Act, to be not in force in the Dutcharti and Guditeru muttas of the East Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Act has been declared not to apply to the East Godavari Agency, by notification under sub-section (2) of section 52-A of the Government of India Act—*see Fort St. George Gazette*, 1931, Pt. I, p. 99.

Under s. 3 (*b*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), it has been declared that the Act is not in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Fort St. George Gazette*, 1898, Pt. I, p. 667, and *Gazette of India*, 1898, Pt. I, p. 872.

[2] The words "Provincial Government of Madras" were substituted for the words "Governor of Fort St. George in Council" by the Adaptation Order of 1937 and the word "State" was substituted for the word 'Provincial" by the Adaptation Order of 1950.

[3] This word was substituted for the word "he" by the Adaptation Order of 1937.

3. Every such commission shall be published in the [1][Official Gazette], and the Commissioner shall enter on his office from the date of such publication ; and in like manner the revocation or other determination of any such commission shall be published in the [1][Official Gazette]. Publication of commission, and revocation thereof.

4. The correspondence and other documents belonging to any such commission shall be deposited, on the determination thereof, in the office of the Board of Revenue, and shall be deemed records of the said Board. Deposit of records.

ACT No. XII OF 1851.[2]

[THE MADRAS CITY LAND-REVENUE ACT, 1851.]

[*14th November 1851.*]

An Act for securing the Land-revenue of Madras.

WHEREAS it is expedient that the land-revenue accruing due to [3][the Crown] at Madras [4][within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras], should be ascertained and collected in as summary a manner as in other parts of the territories under the Government of [3][the Crown] ; It is enacted as follows :— Preamble.

1. All assessable lands not the property of [5][the Government] [4][within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras], of which the rate of assessment is not known, or which have not heretofore been assessed, shall be assessed at the rates customarily charged upon lands of a similar description in the neighbourhood according as they may be situated respectively within or without the walls of Black Town. Assessment of unassessed lands in Madras Town.

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[1] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[2] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

The Madras City Land-revenue (Amendment) Act, 1867 (Mad. Act VI of 1867), to be read with, and taken as part of, this Act—*see* s. 33 of that Act.

[3] According to the direction in the Adaptation Order of 1937, the words "East India Company" should be changed into "the Crown" and consequently the expression "the East India Company" in the Act should read as "the the Crown." The superfluous "the" in the expression "the the Crown" was omitted with effect from the 1st April 1937 by section 3 (2) of and second schedule to the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

[4] These words were substituted for the words "within the limits of the Town of Madras as defined in s. 12, Regulation II of 1802 of the Madras Code" by the Amending Act, 1891 (Central Act XII of 1891).

[5] The words "the Crown" were substituted for the words "East India Company" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950—*see* also footnote 3 above.

Lakhiraj tenures.

2. *Lákhiráj* tenures of land in Madras, of which uninterrupted possession has been held under alleged grants, exempt or partially exempt from assessment for sixty years, shall be valid; no other làkhiràj tenures of land in Madras shall be deemed valid, unless the same are or shall be held under an unexpired grant from the British Government.

Rate assessment.

3. The Collector of Madras shall determine the rate of assessment to be laid on assessable land under section 1 of this Act, with reference to the rate assessed upon other land of a similar description in the neighbourhood, subject to an appeal to the Board of Revenue, to be made within six months from the notification by the Collector of the assessment fixed by him. The decision of the Board of Revenue upon such appeal shall be final.

Appeal.

Power to order measurement.

4. The Collector may order any assessable land or land already assessed or charged with a rent payable to [1][the Government], to be measured, for the purpose of determining the amount of assessment to be imposed, or in the case of land already assessed or charged with a rent, for the purpose of ascertaining whether the actual dimensions, and the dimensions upon which the amount of assessment or rent was calculated, correspond.

Abatement for land assessed beyond actual dimensions.

5. Whenever, upon the measurement of any land under the preceding section, it shall be found that the dimensions upon which the amount of assessment or rent was calculated exceed the actual dimensions, a proportionate abatement shall be made for the excess, on the demand of the party entitled to claim it.

Charge for land in excess of quantity assessed.

Saving of right of holder from whom excess is usurped.

6. On the other hand, when the actual dimensions exceed the dimensions upon which the amount of assessment of rent was calculated, the excess shall be charged at the same rate as the rest of the land, the possession being left undisturbed: Provided that, when it shall appear that the excess has been caused by the surreptitious usurpation of ground belonging to another tenure, the act of the Collector in assessing it shall not prejudice the holder of such other tenure in any effort he may make to recover the ground usurped from it.

Appeal against extra assessment.

An appeal shall lie to the Board of Revenue against any extra assessment or additional rent charged by the Collector for excess by measurement under this section, if preferred within six months from the date of the Collector's order. Upon such appeal the decision of the Board of Revenue shall be final.

7. [*Recovery by distress and sale.*] *Rep. by the Madras City Land-revenue* (*Amendment*) *Act,* 1867 (*Mad. Act VI of* 1867), *s.* 2.

[1] The words "the Crown" were substituted for the words "East India Company" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950—*see* also footnote 3 on p. 81 *supra*.

Deduction from landlord's rent of payment by under-tenant.

8. In the case of payment by any tenant or occupier not holding immediately under [1] [the Government], or the seizure and sale of his property, he may deduct the amount of the payment or levy from the next payment of rent to his landlord.

Priority of Government claim for land revenue.

9. The claim of [1] [the Government] for land-revenue or rent has priority over all other claims upon the land, or to which property distrained upon the land may be liable.

Deposit of amount of disputed claim.

10. If the Collector's claim for arrears of rent is disputed, the process of distraint and sale shall not be stayed, unless the amount claimed be lodged with the Collector.

Limitation of claim to arrears.

11. Arrears of rent or revenue due to [1] [the Government] are recoverable within six years next after the same are due, or next after an acknowledgment of the same in writing has been given by the person by whom the same is payable, or his agent, and not afterwards.

Inquiry into claim to hold land rent-free, and report to Board.

12. When a claim to hold land Lákhiráj, or free of assessment, shall be set up under this Act, the Collector shall inquire into the claim, taking such evidence as the claimant may offer or the public records supply, and shall report his proceedings in the case for the consideration of the Board of Revenue.

Procedure thereupon.

If the Board of Revenue are satisfied of the validity of the claim, they shall make an order accordingly, and such order shall be final. If they are not satisfied of the validity of the claim, they shall direct the Collector to assess the land, leaving the claimant to contest the Collector's demand in the Civil Courts, as herein provided.

Penalty for obstructing Collector or his subordinates.

13. Any person obstructing or molesting the Collector or any of his subordinate officers in the execution of their duty shall, on conviction before a Magistrate of the town of Madras, be liable to a fine not exceeding five hundred rupees, and, in default of payment, to imprisonment in the common gaol for a term not exceeding six months, or until the fine is sooner paid.

Collector's power to punish contempts.

14. The Collector may punish any contempt committed in his presence in open kachari or office, by fine not exceeding two hundred rupees, and in default of payment, by imprisonment in the common gaol for a term not exceeding one month.

Appeal from his orders.

From every such order of fine or imprisonment an appeal shall lie to the Board of Revenue, whose decision shall be final.

Control of Collector.

15. The Collector shall act in the execution of this Act under the usual control of the superior revenue-authorities.

[1] The words "the Crown" were substituted for the words "East India Company" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950—*see* also footnote 3 on p. 81 supra.

Exemption of questions relating to ground-rents from civil jurisdiction of Supreme Court.

16. The ground-rents payable to [1][the Government] from lands in Madras are revenue within the meaning of the Act of Parliament, 21 Geo. III, cap. 70[2]; and the Supreme Court of Judicature established by Royal Charter at Madras has not any civil jurisdiction concerning the said ground-rents or concerning anything ordered or done in the assessment or collection thereof.

Jurisdiction of Civil Courts in Chingleput in suits against Revenue-officers.

17. All actions concerning any trespass or injury committed by any Revenue-officer, acting under colour of this Act, or concerning any claim in respect of any goods taken by, or any moneys paid to, any Revenue-officer under this Act, or concerning any claim of rent or revenue on the part of [1][the Government] under this Act, shall be tried and determined in the Civil Courts established by [1][the Government] in the Zila of Chingleput, notwithstanding that the cause of action in respect of which such action is brought arose, or the defendant therein reside, within the limit of the town of Madras, and every such action shall be brought within six months after the cause of action arose, and not afterwards.

Limitation.

"Collector" and "Board of Revenue" defined.

18. The words "Collector" and "Board of Revenue" used in this Act shall be taken to mean any person or persons lawfully appointed to exercise the powers vested in the Collector and Board of Revenue, respectively, under this Act.

ACT No. XXIV OF 1854.[3]

[THE MALABAR WAR-KNIVES ACT, 1854.]

[*28th October 1854.*]

An Act to prohibit the possession of certain offensive weapons in Malabar.

Preamble.

WHEREAS it is expedient to prohibit the possession of certain offensive weapons in the District of Malabar, in the Presidency of Fort St. George; It is enacted as follows :—

Use of war-knives prohibited.

1. The use of the ayudha katti or war-knife, or of any similar offensive weapon, is hereby prohibited throughout the District of Malabar. * * *[4]

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[1] The words "the Crown" were substituted for the words "East India Company" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950—*see* also footnote 3 on page 81 *supra*.

[2] The East India Company Act, 1870 (21 Geo. 3, C. 70), printed, Collection of Statutes relating to India.

[3] The short title was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

[4] The words from "and every person" to the end of the section, which provide for the surrender of weapons at a certain date, were repealed by the Repealing Act, 1870 (Central Act XIV of 1870).

2. * * *[1] Any person who shall be found in possession of any ayudha katti or war-knife or of a similar offensive weapon, or who shall purchase, or sell, or manufacture, or cause to be manufactured, any ayudha katti or war-knife or similar weapon, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months, or to both; and the said war-knife or weapon shall be confiscated. Fine for possessing, purchasing, etc., war-knives.

3. It shall be lawful for the Magistrate of Malabar to cause search to be made by his Police-officers, acting under his warrant, in any house or other place in which any ayudha katti or war-knife, or any similar offensive weapon, may be supposed to be, contrary to this Act; and any such ayudha katti or war-knife which shall be found may be seized and confiscated. Power to search for war-knives.

It shall also be competent to the Magistrate, at his discretion, to delegate to any of his [3][ ] Assistants the powers conferred by this section.

Any person who shall resist or oppose such search or seizure, or forcibly withstand any Police-officer charged with such warrant, shall be liable to the same penalties as if such person had opposed or resisted the execution of a warrant for the search after stolen goods. Penalty for resisting search.

ACT No. VII OF 1857.[3]

[THE MADRAS UNCOVENANTED OFFICERS ACT, 1857.]

[*1st May 1857.*]

An Act for the more extensive employment of Uncovenanted Agency in the Revenue and Judicial Departments in the Presidency of Fort St. George.

WHEREAS the exigencies of the public service require the more extended employment of uncovenanted officers in the Preamble.

[1] The words "After such date" in s. 2 were repealed by the Repealing Act, 1870 (Central Act XIV of 1870).

[2] The word "European" was omitted by the Adaptation Order of 1950.

[3] The short title, "The Madras Uncovenanted Officers Act, 1857" was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

Central Act VII of 1857 is repealed, so far as it relates to Deputy Magistrates, by the Repealing Act, 1873 (Central Act XII of 1873). It was declared to be in force in the whole of the Madras Presidency, except as regards the Scheduled Districts, by the Laws Local Extent Act, 1874 (Central Act XV of 1874), s. 4.

Under s. 3 (*b*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), the Act has been declared not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Fort St. George Gazette*, 1898, Pt. I, p. 667 and *Gazette of India*, 1898, Pt. I, p. 872.

Revenue and Judicial Departments in the Presidency of Fort St. George ; It is hereby enacted as follows :—

Power to appoint uncovenanted officers.

1. The [1][State Government of Madras] may appoint, in any zila or district within the [2][State], one or more uncovenanted Deputy Collectors *and Deputy Magistrates* with the powers hereinafter mentioned.

2. [*Official oath or declaration.*] *Rep. by Indian Oaths Act,* 1873 (*Central Act X of* 1873).

3. [3][*Duties and powers of Deputy Collector.*] *Rep. by Mad. Act VII of* 1914, *s.* 2.

4. [*Duties and powers of Deputy Magistrates.*] *Rep. by Central Act XVII of* 1862.

One officer may hold both offices.

5. Nothing in this Act contained shall be held to disqualify any uncovenanted officer appointed under this Act from holding at the same time the offices of Deputy Collector *and Deputy Magistrate.*

6. [4][* * * *]

ACT No. I OF 1858.[5]

[THE MADRAS COMPULSORY LABOUR ACT, 1858.]

[*20th January 1858.*]

An Act to make lawful compulsory labour for the prevention of mischief by inundation, and to provide for the enforcement of customary labour on certain works of irrigation in the Presidency of Fort St. George.

Preamble.

WHEREAS the safety of person and property is endangered by inundations caused by sudden breaches of the embankments of tanks, rivers and canals, and of anicuts and other

[1] The words " Provincial Government of Madras " were substituted for the words " Governor of Fort St. George in Council " by the Adaptation Order of 1937 and the word " State " was substituted for the word " Provincial " by the Adaptation Order of 1950.

[2] The word " Province " was substituted for the words " said Presidency " by the Adaptation Order of 1937 and the word " State " was substituted for the word " Province " by the Adaptation Order of 1950.

[3] As to placing of Deputy Collectors in charge of Divisions of districts—*see* Mad. Act VII of 1914.

[4] This section was omitted by the Adaptation Order of 1937.

[5] The short title, " The Madras Compulsory Labour Act, 1858 " was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Act was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), section 4 and the second schedule to be in force in the whole of the Presidency of Madras except the territories mentioned in the sixth schedule to that Act.

Under s. 3 (*b*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), the Act has been declared not to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Fort St. George Gazette,* 1898, Pt. I, p. 667, and *Gazette of India,* 1898, Pt. I, p. 872. The Act has been extended by a notification under section 5 of the Scheduled Districts Act to the Vizagapatam Agency and the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette,* 1930, Pt. I, p. 553. The Act has been declared by a notifiction under section 3, clause (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette,* 1930, Pt. I, p. 553.

like works ; and it is necessary for the common good to make it obligatory on persons, [1][ ] when duly called upon, to unite their labour to prevent such breaches, or to repair them instantly ; and whereas it is expedient to make legal provision for the enforcement of the duty, which by local custom is incumbent on village-communities, to furnish the labour required for the execution of certain works for the purpose of irrigation and drainage ; It is enacted as follows :—

Able-bodied male persons may, in certain cases, be called upon to assist in preventing or repairing breaches in embankments and anicuts.

1. Whenever it shall appear to the officer in charge of any tank, river or canal, or of any anicut or other like work, that there is imminent danger of the embankment of such tank, river or canal being breached, or of a breach being made in such anicut or other work, and of a destructive inundation being caused thereby, which may be prevented by a large body of [2][persons] immediately working together to strengthen the embankment or other work, or when such a breach has occurred, if it shall appear to such officer that it can be repaired, and the inundation caused by it be stopped, by the immediate employment of a large body of [2][persons] for that purpose, it shall be lawful for such officer to require the head or heads of the village or villages in the vicinity to call upon all able-bodied male persons [1][ ] in such village or villages to co-operate in the work necessary for preventing or repairing the breach, as the case may be.

In the absence of the said officer, it shall be lawful for the tahsildar of the taluq to make such requisition in his stead.

And if neither the said officer nor the táhsíldar is on the spot, and the emergency is great and urgent, it shall be lawful for the head of the village in which the breach is expected to occur or has occurred, of his own motion, to call upon [3][all able-bodied male persons] of his own village, and, if needful, to make a requisition to the heads of the neighbouring villages to call likewise upon [4][the able-bodied male persons of their villages], to co-operate in the work necessary for preventing or repairing the breach.

Punishment for refusing or neglecting to comply with such call.

2. Any male person [1][ ] being duly called upon by the head of his village to labour as aforesaid, who shall refuse or neglect to comply with such call without any lawful excuse shall, on conviction before a Magistrate or an officer exercising the ordinary powers of a Magistrate, be punished with a fine which may extend to one hundred rupees, or

[1] The words " of the labouring classes " were omitted by the Adaptation (Amendment) Order of 1950.
[2] This word was substituted for the word " labourers " by *ibid.*
[3] These words were substituted for the words " the labourers as aforesaid " by *ibid.*
[4] These words were substituted for the words "the labourers of their villages", by *ibid.*

with simple imprisonment which may extend to one month, or with both.

Rate of remuneration.

3. Every person who shall be employed on such work, under such requisition shall be paid for his labour by day at the highest rate paid in the neighbourhood for similar work and, if he is required to work at night, at double such rate.

Mode of payment.

4. Payment shall be made to [1][such persons] from the public treasury; and if [2][they] shall have been employed upon a work belonging to a private person, the amount advanced from the treasury shall be recoverable from such person by the same means which may be lawfully used for the recovery of arrears of land-revenue.

Recovery of advances from private persons. Requisition for the supply of materials, etc., from villagers.

[3][**5.** It shall be lawful for heads of villages, on the requisition of the officer in charge of such works, as aforesaid, or in his absence, on the requisition of the táhsíldar or in case of emergency when neither such officer nor the táhsíldar is on the spot, of their own motion, to make requisitions upon the inhabitants of their villages for the supply of materials, to wit, earth, stone, trees and leaves, bamboos, straw, gunny bags and the like, necessary for preventing or repairing breaches in the embankments of tanks, rivers and canals, and to remove or seize, and, if necessary, to cut down such materials wherever they may be found, giving receipts for them in writing; such materials shall be paid for from the public treasury at the highest prices for which they are sold in the neighbourhood and in case damage is sustained by any person in consequence of the removal, seizure or cutting down of any such materials, compensation shall be made for such damage, the amount of which compensation shall, in case of dispute, be determined in the same manner as amounts payable under section 6. When the work for which such materials are used belongs to a private person, the amount advanced from the treasury shall be recoverable from him by the same means by which arrears of land revenue are recoverable.]

Liability of person refusing to contribute labour to work usually executed by village community.

6. Whenever by local custom any work for the purpose of irrigation or drainage, or connected therewith, is usually executed by the joint labour of a village-community, any person bound by such custom to contribute labour to such work, who neglects or refuses without reasonable cause to comply with a requisition for such customary aid made to him by the head of the village under the orders of the táhsíldar or other superior Revenue-officer, shall be liable to pay a sum equal to twice the value of the labour which he is bound to contribute.

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[1] These words were substituted for the words "the labourers" by the Adaptation (Amendment) Order of 1950.

[2] This word was substituted for the words "the labourers" by *ibid.*

[3] This section was substituted for the original by section 2 of the Madras Compulsory Labour (Amendment) Act, 1935 (Madras Act IX of 1935).

The amount so payable shall, in case of dispute, be determined summarily by a Village * * [1] Panchayat assembled by order of the Collector through the Village * * [1] Munsif according to the rules for assembling such Panchayats prescribed in Regulations V and VII of 1816.[2] Mode of determining amount payable.

Such amount shall be payable on demand; and, on non-payment, the same may be recovered by the same means by which arrears of land-revenue are recoverable. Recovery.

All sums paid or recovered under this section shall be applicable to the expenses of any works for the purpose of irrigation or drainage executed for the benefit of the village communities to which the defaulters respectively belong. Appropriation.

ACT No. XXIV OF 1859.[3]

[THE MADRAS DISTRICT POLICE ACT, 1859.]

[*6th September 1859.*]

An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George.

WHEREAS it is expedient to make the Police-force throughout the Madras Presidency a more efficient instrument Preamble.

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[1] The words "or District" were repealed by the Repealing Act, 1874 (Central Act XVI of 1874).

[2] Mad. Reg. V of 1816 has been repealed by the Madras Village Courts Amendment Act, 1919 (Madras Act II of 1920) and Mad. Reg. VII of 1816 has been repealed by Central Act XVI of 1874.

[3] The short title, "The Madras District Police Act, 1859" was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Act was declared by the Laws Local Extent Act, 1874 (Central Act XV of 1874), section 4, and the second schedule, to be in force in the whole of the Presidency of Madras except the territories mentioned in the second schedule to that Act. As to employment in the City of Madras of Police officers appointed under Central Act XXIV of 1859, *see* the Madras City Police Act, 1888 (Central Act III of 1888), s. 16. The Madras District Police (Amendment) Act, 1865 (Madras Act V of 1865), and sections 3 and 4 of the Towns Nuisances Act, 1889 (Madras Act III of 1889), are to be read with, and taken as part of this Act.

It has been extended, under s. 5 of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to the taluks of Bhadrachalam and Rakapilli—*see Fort St. George Gazette*, 1879, Pt. I, p. 722 and *Gazette of India*, 1879, Pt. I, p. 630.

It has been declared under s. 3 (*a*) of the same Act, to be in force in the scheduled districts in Ganjam and Vizagapatam—*see Fort St. George Gazette*, 1898, Pt. I, p. 666, and *Gazette of India*, 1898, Pt. I, p. 869. The Act has been declared by a notification under section 3, clause (*a*) of the Scheduled Districts Act to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Act is in force in Nugur taluk of East Godavari district in virtue of section 2 (1) of Regulation I of 1909.

As to power of Governor-General in Council to create a General Police District (notwithstanding anything in this Act) and to direct the enrolment of a Police Force therein, *see* the Police Act, 1888 (Central Act III of 1888).

[1] * * * * for the prevention and detection of crime, and to re-organize the Police-force [2] * * * * It is enacted as follows :—

Interpretation.

1. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say),

"Magistrate."

the word "Magistrate" shall include all persons, within their respective jurisdictions, exercising all or any of the powers of a Magistrate ;

"Superior Police."

[3][the expression "superior police" shall mean the Inspector-General of Police, Deputy Inspectors-General of Police, District Superintendents of Police, Assistant Superintendents of Police and Deputy Superintendents of Police ;

"Subordinate Police."

the expression "subordinate police" shall mean all police-officers of and below the rank of an Inspector] ;

"Police."

[4][the word "Police" shall include all persons appointed under this Act] ;

"General Police District."

the expression "General Police District" shall embrace all districts to which the operation of this Act shall be extended ;

"Property."

the word "property" shall include any [5][movable property] ; money or valuable security ;

[6] * * * * *]

"Person."

the word "person" shall include company or corporation ;

"Month."

the word "month" shall mean calendar month ;

"Cattle."

the word "cattle" shall, besides horned cattle, include elephants, camels, horses, asses, mules, sheep, goats and swine.

2. [*Repeal and amendment of certain Acts.*] *Rep. by the Repealing Act*, 1870 (*Central Act XIV of* 1870).

3. [*Jurisdiction of officers appointed under Mad. Reg. XI of* 1816.] *Rep. by the Repealing Act*, 1870 (*Central Act XIV of* 1870).

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[1] The words "at the disposal of the Magistrate" were omitted by section 2 of the Madras District Police (Amendment) Act, 1936 (Madras Act XXI of 1936).

[2] The words "and improve the condition of the village-police" were repealed by the Madras Hereditary Village-officers Act, 1895 (Mad. Act III of 1895), except as to scheduled districts.

[3] These definitions were substituted for the definition of "subordinate" by section 3 (i) of the Madras District Police (Amendment) Act, 1936 (Madras Act XXI of 1936).

[4] This definition of Police was substituted for the former definition by the Madras Hereditary Village-offices Act, 1895 (Madras Act III of 1895).

[5] These words were substituted for the word "chattel" by section 3 (ii) of the Madras District Police (Amendment) Act, 1936 (Madras Act XXI of 1936).

[6] The definition of Number and Gender was repealed by the Second Repealing and Amending Act, 1914 (Central Act XVII of 1914).

Superintendence vested in the State Government.

4. The superintendence of the Police throughout the General Police District shall vest in, and be exercised by the [1][State Government] and, except as authorized by [2][them] under the provisions of this Act, no person, officer or Court shall be empowered to [3][* * *] supersede or control any police-functionary, any Regulation, Act or usage to the contrary notwithstanding.

Inspector-General of Police, etc.

5. The administration of the Police throughout the General Police District shall be vested in an officer to be styled the Inspector-General of Police for the Presidency of Madras, and in such [4][superior police officers] as to the [1][State Government] shall seem fit [5][* * *].

Powers of Police, etc.

6. All powers not inconsistent with the provisions of this Act which up to the passing of this Act belonged by law to the existing Police-authorities shall be vested in the Police-authorities appointed under this Act: Provided always that no Police-functionary so appointed shall possess or exercise any judicial or revenue authority.

Inspector-General to be Justice of the Peace. His powers.

District Superintendent may be Magistrate. His powers.

7. The Inspector-General of Police shall be appointed a Justice of the Peace; he shall also have the full powers of a Magistrate throughout the General Police District, but shall exercise these powers subject to such orders as may from time to time be issued by the [1][State Government]. The [1][State Government] may vest any District Superintendent of Police with all or any of the powers of a Magistrate within such limits as [6][they] may deem proper; but such Superintendent shall exercise the powers with which he shall be so invested only so far as may be necessary for the preservation of the peace, the prevention of crime, and the detection, apprehension and detention of offenders in order to their being brought before a Magistrate, and as far as may be necessary for the performance of the duties assigned to him by this Act.

Constitution, pay, etc., of force.

8. The entire Police-establishment of the Madras Presidency shall for the purposes of this Act be deemed to be one Police-force and shall be formally enrolled, and shall consist of such number of officers and men, and shall be otherwise constituted in such manner, as shall be from time to time

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] This word was substituted for the word "him" by the Adaptation Order of 1937.

[3] The word "appoint" was omitted by *ibid.*

[4] These words were substituted for the word "subordinates" by section 4 of the Madras District Police (Amendment) Act, 1936 (Madras Act XXI of 1936).

[5] The words "who shall from time to time be appointed by the Governor in Council, and may be removed by the same authority" were omitted by the Adaptation Order of 1937.

[6] The word was substituted for the word "he" by *ibid.*

ordered by the [1][State Government] [2][* * *]. [3][The pay and all other conditions of service of officers of the Subordinate Police shall, subject to the provisions of this Act, be such as may be determined by the [4][State] Government].

Inspector-General to control force and make rules.

9. The Inspector-General may, from time to time, subject to the approval of the [1][State Government], frame such orders and regulations as he shall deem expedient, relative to the general government and distribution of the force, the places of residence, the classification, rank and particular service of the members thereof; their inspection; the description of arms, accoutrements and other necessaries to be furnished to them; to the collecting and communicating intelligence and information; and all such other orders and regulations relative to the said Police-force as the said Inspector-General shall, from time to time, deem expedient for preventing abuse or neglect, and for rendering such force efficient in the discharge of all its duties.

Dismissal, suspension or reduction of officers of the Subordinate Police.

[5][**10.** [6](Subject to the provisions of article 311 of the Constitution and to such rules) as the [4][State] Government may, from time to time make under this Act, the Inspector-General, Deputy Inspectors-General and District Superintendents of Police may at any time dismiss, suspend or reduce to a lower post, or time scale, or to a lower stage in time scale, any officer of the Subordinate Police whom they shall think remiss or negligent in the discharge of his duty or otherwise unfit for the same and may order the recovery from the pay of any such Police officer of the whole or part of any pecuniary loss caused to Government by his negligence or breach of orders.]

Police-Officers to receive certificates of office.

11. Every person [7][appointed as an Officer of the Subordinate Police] shall receive on his enrolment a certificate (A) under the seal of the Inspector-General, by virtue of which he shall be vested with the powers, functions and privileges of a Police-officer. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the Police-force, and shall thereupon be immediately surrendered to his superior officer, or other person empowered to receive it.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "subject to the control of the Governor-General of India in Council" were omitted by the Adaptation Order of 1937.

[3] This sentence was inserted by *ibid.*

[4] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

[5] This section was substituted for the original section by the Adaptation Order of 1937.

[6] These words and figures were substituted for the words "subject to such rules" by the Adaptation (Third Amendment) Order of 1951.

[7] These words were substituted for the words "so appointed" by *ibid.*

12. [*Police Superannuation Fund.*] *Rep. by the Repealing Act*, 1874 (*Central Act XVI of* 1874).

Additional Police-officers employed at cost of individuals.

13. It shall be lawful for the [1] [State Government], if they shall think fit, on the application of any person showing the necessity thereof, to [2] [appoint] any additional number of Police-officers to keep the peace at any place within the General Police District, at the charge of the person making the application, but subject to the orders of the [3][Inspector-General] [4][or Deputy Inspector-General] or District Superintendent and for such time as they shall think fit; provided always that it shall be lawful for the person on whose application such [5][appointment] shall have been made, on giving one month's notice in writing to the Inspector-General [4][or Deputy Inspector-General] or District Superintendent, to require that the officers so appointed shall be discontinued: such person shall be relieved from the charge of such additional force from the expiration of such notice.

Additional force in neighbourhood of railway and other works.

14. Whenever any railway, canal or other public work shall be carried on, or be in operation, in any part of the country, and it shall appear to the Inspector-General that the appointment of an additional Police-force in such neighbourhood is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, it shall be lawful for the Inspector-General, with the consent of the [6][State Government], to direct the employment of such additional force, and to maintain the same so long as such necessity shall continue; and to make orders from time to time upon the treasurer or other officer having the control or custody of the funds of any Company carrying on such works, for the payment of the extra force so rendered necessary as aforesaid.

Recovery of sums payable for support of additional Police force.

15. [7][All sums of money payable under the two last preceding sections] shall be recoverable by suit in any competent

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[1] The words "Provincial Government" were substituted for the words "Inspector-General of Police or any Deputy Inspector-General or any District Superintendent" by the Adaptation Order of 1937 and the word "State" was substituted for the word "Provincial" by the Adaptation Order of 1950.

[2] This word was substituted for the word "deputo" by section 6 (iii)of the Madras District Police (Amendment) Act, 1936 (Madras Act XXI of 1936).

[3] These words were substituted for the words "said Inspector-General" by the Adaptation Order of 1937.

[4] These words were inserted by section 6 (ii) of the Madras District Police (Amendment) Act, 1936 (Madras Act XXI of 1936).

[5] This word was substituted for the word "deputation" by section 6 (iii), *ibid.*

[6] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[7] The words "All moneys paid in respect of such additional force as is mentioned in the two last preceding sections shall be paid into a fund to be called "The General Police Fund", and shall be applied to the maintenance of the Police-force under such orders as the Governor in Council may pass, and all sums of money payable under those sections" were omitted, and these words were inserted, by the Adaptation Order of 1937.

Court, or by distress and sale of the goods of the defaulter under the warrant of a Magistrate.

Special Police-officers.

16. When it shall appear that any [1] [unlawful assembly or riot or disturbance of the peace] has taken place or may be reasonably apprehended in any place, and that the ordinary officers appointed for preserving the peace are not sufficient for its preservation, and for the protection of the inhabitants, and the security of property in such place, it shall be lawful for any Police-officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the public or village servants, or residents of the neighbourhood, as such Police-officer may require to act as special Police-officers for such time and in such manner as he shall deem necessary; and it shall be the duty of such Magistrate at once to comply with such applications.

Powers of special Police-officers.

17. Every special Police-officer so oppointed shall have the same powers, privileges and protection, and be liable to all such duties and penalties, and be subordinate to the same authorities, as the ordinary officers of Police. [2] [He shall receive a certificate in such form as the [3] [State Government] may determine, under the signature of the Magistrate who appointed him.]

Punishment for refusal to serve.

18. If any person, being appointed a special Police-officer as aforesaid, shall without sufficient excuse neglect or refuse to serve as such, or to obey such lawful order or direction as may be given him for the performance of his duties, he shall be liable upon conviction before a Magistrate to a fine not exceeding fifty rupees for such neglect, refusal or disobedience.

Police-officers not to resign without leave or notice; nor to take other employment.

19. No Police-officer shall be at liberty to resign his office, or withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the District Superintendent; or unless he shall have given to his superior officer two months' notice in writing of his intention to do so. Nor shall any such Police-officer engage in any employment or office whatever, other than his duties under this Act, unless expressly permitted to do so in writing under the seal of the Inspector-General.

Unlawful assumption of Police functions, personation of Police, etc.

20. From and after the passing of this Act, every person not being, or having ceased to be, a duly enrolled Police-officer, who shall unlawfully assume any function or power belonging to the Police, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements and appointments, and other necessaries which may have been

[1] These words were substituted for the words " tumlut, riot or outrage " by section 7 of the Madras District Police (Amendment) Act, 1936 (Madras Act XXI of 1936).

[2] This sentence was added by section 8, *ibid*,

[3] The words " Provincial Government " were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for " Provincial " by the Adaptation Order of 1950.

supplied to him for the execution of his duty, or who shall have in his possession any distinctive article of the dress or appointment directed to be worn exclusively by the Police-force, without being able to account satisfactorily for his possession thereof, or who shall put on the dress of any Police-officer, or any dress designed to represent it, or to be taken for it, or who shall otherwise personate the character or act the part of any Police-officer for any purpose whatever, shall, in addition to any other punishment to which he may be liable for any offence committed under the assumed character, be liable on conviction before a Magistrate to a penalty not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for a period not exceeding six months, or both.

Duties of Police-officers.

21. Every Police-officer shall, for all purposes in this Act contained, be considered to be always on duty and shall have the powers of a Police-officer in every part of the General Police District. It shall be his duty to use his best endeavours and ability to prevent all crimes, offences and public nuisances ; to preserve the peace ; to apprehend disorderly and suspicious characters ; to detect and bring offenders to justice ; to collect and communicate intelligence affecting the public peace ; and promptly to obey and execute all orders and warrants lawfully issued to him.

22 to 43. [*Offences for which Police-officers may arrest without warrant : procedure on arrest : rules regarding bail and recognizances : remands : power to enter drinking-shops, etc. : inspection of weights and measures : prohibition to receive complaints of petty offences : powers to inform and prosecute : provisions regarding execution of warrants and service of summonses : Police-officers not to use threats or promises : obligation to tender assistance to Police-officers.*] *Rep. by Central Act XVII of* 1862.

Powers of the Police, etc., on the occasion of a fire.

[1][**42.** On the occasion of a fire, any Police-officer above the rank of constable, or any member of the Madras Fire Services above the rank of fireman, may—

(*a*) remove or order the removal of any persons who by their presence, interfere with or impede the operations for extinguishing the fire or for saving life or property ;

(*b*) close any street or passage in or near which any fire is burning ;

(*c*) by himself or those acting under his orders, break into or through, or pull down, or use for the passage of hoses or other appliances, any premises for the purpose of extinguishing the fire, doing as little damage as possible ;

[1] These sections were inserted by section 3 (i) of the Madras City Police and District Police (Amendment) Act, 1947 (Madras Act VIII of 1947).

(*d*) cause the mains and pipes of any area to be shut off so as to give greater pressure of water in the place where the fire has occurred ;

(*e*) call on the persons in charge of any fire-engine to render such assistance as may be possible; and

(*f*) generally, take such measures as may appear necessary for the preservation of life and property.

Any damage done on the occasion of fires by members of the Madras Fire Services or of any fire-brigade or by Police-officers or their assistants in the due execution of their duties shall be deemed to be damage by fire within the meaning of any policy of insurance against fire. But nothing in this section shall exempt any Police-officer or any member of the Madras Fire Services or of any fire-brigade from liability to damages on account of any acts done by him without reasonable cause.

Penalty for false alarm of fire.

43. Whoever gives or causes to be given to any fire-brigade or to any member thereof or to any member of the Madras Fire Services, whether by means of a street fire-alarm, statement, message or otherwise, any alarm of fire which he knows to be false, shall be liable on conviction to fine which may extend to fifty rupees.

Whoever is convicted under this section, after having been previously convicted either under this section or under section 62-A of the Madras City Police Act, 1888, shall be liable to simple imprisonment for a period which may extend to six months and shall also be liable to fine.] Madras Act III of 1888.

Penalties for neglect of duty, etc.

44. Every Police-officer who shall be guilty of any violation of duty or [1] [wilful breach or neglect of any rule or regulation or lawful order made by competent authority] or who shall cease to perform the duties of his office without leave, or without having given two months' notice as provided by this enactment, or engage without authority in any employment other than his Police duty, or who shall maliciously and without probable cause prefer any false, vexatious or frivolous charge or information against any individual, or who shall knowingly and wilfully and with evil intent exceed his powers, or shall be guilty of any wilful and culpable neglect of duty, in not bringing any person who shall be in his custody without a warrant before a Magistrate [2] (as provided by law), or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable on conviction before a Magistrate to a penalty not exceeding three months' pay, or to imprisonment with or without hard labour not exceeding three months, or both.

[1] These words were substituted for the words and figures " wilful breach of any lawful orders and regulations not punishable under section 10 of this Act " by section 9 of the Madras District Police (Amendment) Act, 1936 (Madras Act XXI of 1936).

[2] These words were substituted for the words " as hereinbefore provided " by the Adaptation (Third Amendment) Order of 1951.

Penalty for receiving unauthorized fees, etc.

45. Any Police-officer who shall on any pretext, or under any circumstances, directly or indirectly collect or receive any fee, gratuity, diet-money, allowance or recompense, other than he may be duly authorized by the Inspector-General or other officer acting under his order to collect or receive shall, on conviction before a Magistrate, be liable to a penalty not exceeding six months' pay, or to imprisonment, with or without hard labour, not exceeding six months, or both.

Penalty for extortion, etc.

46. Any Police-officer who shall directly or indirectly extort, exact, seek or obtain any bribe or unauthorized reward or consideration, by any illegal threat or pretence, or for doing or omitting or delaying to do any act which it may be his duty to do or to cause to be done, or for withholding or delaying any information which he is bound to afford or to communicate, or who shall attempt to commit any of the offences abovesaid, or shall be guilty of cowardice, shall be liable, upon conviction before a Magistrate, to a fine not exceeding twelve months' pay, or to imprisonment with or without hard labour not exceeding twelve months, or both:

Committal by Magistrate of serious cases.

Provided always that nothing in the three last preceding sections shall be deemed to preclude the Magistrate from committing for trial any cases of this nature too serious for his cognizance.

Penalty for offences against Police-officer.

47. If any person shall assault or resist any Police-officer in the execution of his duty, or shall aid or incite any other person so to do, or shall maliciously and without probable cause prefer any false or frivolous charge against any Police-officer, such person shall, on conviction of such offence before any Magistrate be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, not exceeding three months, or both.

48. [*Penalty for certain offences within limits of towns. Power to arrest without warrant. Slaughtering cattle, furious riding, etc.*] *Rep. by the Madras Towns Nuisances Act,* 1889 (*Madras Act III of* 1889).

49. [*Regulation of public processions, etc., and of carriages and persons and places of public resort. Regulation of use of music in streets.*] *Rep. by Mad. Act V of* 1896.

Enquiry into charges against certain Police-officers.

[1] [**50.** Any charge against a Police-officer above the rank of a constable under this Act shall be enquired into and determined only by an officer exercising the powers of a Magistrate.]

Liability to prosecution for higher penalties.

51. Nothing contained in this Act shall be construed to prevent any person from being prosecuted for any offence made punishable on conviction by this Act, or to prevent any person from being liable under any other law, Regulation

[1] This section was substituted for original section 50 by section 10 of he Madras District Police (Amendment) Act, 1936 (Madras Act XXI of 1936).

Proviso.

or Act to any other or higher penalty or punishment than is provided for such offence by this Act: Provided always that no person shall be punished twice for the same offence.

Levy of fines.

52.[1] All fines and penalties imposed, and all sums of money recoverable under the authority of this Act, may, in case of non-payment thereof, be levied by distress and sale of the [2][movable property] of the offender by warrant of the Magistrate * * * *[3]:

Limitation of action.

53. All actions and prosecutions against any person, which may be lawfully brought for [4][anything done or intended to be done, under the provisions of this Act, or under the provisions of any other law for the time being in force conferring powers on the police] shall be commenced within three months after the act complained of shall have been committed and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the Superintendent or other superior officer of the district in which the act was committed, one month at least before the commencement of the action; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action, brought by or on behalf of the defendant; and though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have cost against the defendant, unless the Judge, before whom the trial shall be, shall certify his approbation of the action:

Notice.

Recovery by Plaintiff.

Costs.

Bar to action.

Provided always that no action shall in any case lie where such officers shall have been prosecuted criminally for the same act.

Plea that act was done under warrant.

54. When any action, prosecution or proceeding shall be brought against any Police-officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate; and such plea shall be proved by the production of the warrant directing the act and purporting to be signed by a Magistrate. And the defendant shall

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[1] *See* the Madras District Police (Amendment) Act, 1865 (Madras Act V of 1865), s. 1.

[2] These words were substituted for the words "goods and chattels," by section 11 of the Madras District Police (Amendment) Act, 1936 (Madras Act XXI of 1936).

[3] The words "in manner provided by Act II of 1839" were repealed by the Repealing Act, 1874 (Central Act XVI of 1874).

[4] The words "either under the provisions of this Act or under the provisions of any other law for the time being in force, conferring powers on the police" were substituted for the words "under the provisions of this Act or under the general Police-powers hereby given" by section 12 of the Madras District Police (Amendment) Act, 1936 (Madras Act XXI of 1936) and the words in square brackets were substituted for the words "anything done or intended to be done, either under the provisions of this Act or under the provisions of any other law for the time being in force, conferrring powers on the police" by section 3 (ii) of the Madras City Police and District Police (Amendment) Act, 1947 (Madras Act VIII of 1947).

thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. And no proof of the signature of such official shall be necessary, unless the Court shall see reason to doubt its being genuine : Decree for defendant. Proof of signature.

Provided always that any remedy which the party may have against the authority issuing such warrant shall remain entire. Saving of remedy against issuer of warrant.

[1] [54-A. (1) The [2] [State Government] may, by notification in the [3] [Official Gazette] extend to any town all or any of the provisions of the Madras City Police Act, 1888, mentioned in the Schedule and may declare such extension to be subject to such modifications as they think fit. Power of State Government to extend certain provisions of Act to any town.

(2) The [2] [State Government] may, by notification in the [3] [Official Gazette] cancel or modify any such notification as is referred to in sub-section (1)].

55. This Act shall take effect in any and every such district as the [4] [State Government] shall appoint by notification published in the official gazette. Operation of Act.

[5] [SCHEDULE.

[*See* section 54-A (1).]

Definitions of " imprisonment ", " Gaming ", " Instruments of gaming ", " common gaming house " and " conviction " [6] [in section 3,] sections 23, 24, 26, 28, 33, 48, 50, [7] [ ], 63, 64, 65 and 66, clauses (iii), [8], (v), (vi), (vii), (viii), (x), (xiii), (xiv), (xv), (xvi), (xvii), [9][and (xviii) of section 71] and sections 73, 74, 75, 77, 78, 79 and 80.]

FORM A.

(*See* section 11.)

A. B. has been appointed a member of the Police-force under Act XXIV of 1859, and is vested with the powers, functions and privileges of a Police-officer.

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[1] This section was inserted by section 13 of the Madras District Police (Amendment) Act, 1936 (Madras Act XXI of 1936).

[2] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[3] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

[4] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[5] This schedule was added by section 14 of the Madras District Police (Amendment) Act, 1936 (Madras Act XXI of 1936).

[6] These words and figure were substituted for the words and figure " in section 1 " by the Second Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

[7] The figures " 61 " were omitted by section 3 (iii) of the Madras City Police and District Police (Amendment) Act, 1947 (Madras Act VIII of 1947).

[8] The brackets and figures " (iv) " were omitted by section 3 (1) of and the Second Schedule to the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

[9] These words, figures and brackets were substituted for the words, figures and brackets " (xviii) and (xx) of section 71 " by the Second Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

(Part I.—Preliminary. Part II.—Establishment and Constitution of Civil Courts.)

ACT No. III OF 1873.[1]

[THE MADRAS CIVIL COURTS' ACT, 1873]

[*21st January 1873.*]

An Act to consolidate and amend the law relating to the Civil Courts of the Madras Presidency subordinate to the High Court.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the Civil Courts of the Madras Presidency subordinate to the High Court ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be called " The Madras Civil Courts Act, 1873 " :

Local extent. It extends to all the territories [2][. . .] under the Government of the Governor of Fort St. George in Council, except the Tracts respectively under the jurisdiction of the Agents for Ganjam and Vizagapatam ;

And it shall come into force on the 1st day of March 1873.

Commencement. **2.** [*Repeal of certain enactments. Repealed by the Repealing Act,* 1873 (*Central Act XII of* 1873).]

PART II.

ESTABLISHMENT AND CONSTITUTION OF CIVIL COURTS.

Number of District Courts. **3.** The number of District (heretofore designated Zila) Courts to be established or continued under this Act, shall be fixed, and may from time to time be altered, by the [3] [State Government :]

[4] [* * * * * *]

Appointment of Additional District Judges. [5] [**3-A.** When in the opinion of the High Court, the state of business pending before the Judge of any District Court (hereinafter called the 'District Judge') so requires, the

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[1] For Statement of Objects and Reasons *see Gazette of India,* 1873, Part V, page 173 ; for Report of the Select Committee *see ibid,* page 695 ; for proceedings in Council relating to the Bill, *see ibid,* Supplement, 1870, page 900 and *ibid,* 1873, pages 3, 16 and 153.

[2] The words " for the time being " were omitted by the First Schedule to the Adaptation Order of 1937.

[3] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] The words " Provided that no increase to the number of such Courts shall be made by such Government, without the previous sanction of the Governor-General in Council " were repealed by the Decentralization Act, 1914 (Central Act IV of 1914), Sch. Pt. I.

[5] Section 3-A was inserted by section 2 of the Madras Civil Courts (Amendment) Act (Madras Act II of 1931).

[1] (State Government) may appoint one or more Additional District Judges to that Court for such period as they may deem necessary.

The Additional District Judges so appointed shall discharge all or any of the functions of the District Judge under this Act or any other law for the time being in force which the District Judge may assign to them, and, in the discharge of those functions, they shall exercise the same powers as the District Judge.]

Number of Subordinate Judges and District Munsifs.

4. The number of Subordinate Judges and District Munsifs to be appointed under this Act for each district, shall be fixed, and may from time to time be altered, by the [1] [State Government].

[2][* * * * * *]

[3] [The [1] (State Government) may after consultation with the High Court, fix and from time to time vary by notification the number of Subordinate Judges to be appointed for a Subordinate Judge's Court or the number of District Munsifs to be appointed for a District Munsif's Court.]

[4] [**4-A.** When more than one Subordinate Judge is appointed to a Subordinate Judge's Court or more than one District Munsif to a District Munsif's Court, one of the Subordinate Judges or the District Munsifs shall be appointed the Principal Subordinate Judge or Principal District Munsif and the others Additional Subordinate Judges or Additional District Munsifs as the case may be.

Each of the Judges appointed to a Subordinate Judge's Court or a District Munsif's Court may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force.

Subject to the general or special orders of the District Judge, the Principal Subordinate Judge or the Principal District Munsif may, from time to time, make such arrangements as he thinks fit for the distribution of the business of the Court among the various Judges thereof.]

Court's locality.

5. The place at which any Court under this Act shall be held may be fixed, and may from time to time be altered, in the case of a District Court or a Subordinate Judge's Court, by the [1] [State Government],

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] The words " Provided that no addition to the number of such officers shall be made by such Government without the previous sanction of the Governor-General in Council " were repealed by the Decentralization Act, 1914 (Central Act IV of 1914), Sch. Pt. I.

[3] This paragraph was added by section 2 of the Madras Civil Courts (Amendment) Act, 1925 (Madras Act III of 1925).

[4] Section 4-A was inserted by section 3, *ibid.*

(*Part II.—Establishment and Constitution of Civil Courts. Part III.—Jurisdiction.*)

in the case of a District Munsif's Court, by the High Court.

[1] [The places fixed for any Court under this section shall be deemed to be within the local jurisdiction of that Court.]

[2] **6.** [* * * * * *].

[2] **7.** [* * * * * *].

District Courts, Subordinate Judges and District Munsifs.

8. The present Zila Courts, Principal Sadr Amins, and District Munsifs, shall be respectively the first "District Courts," "Subordinate Judges," and "District Munsifs" under this Act.

Seal of Court.

9. Every Court under this Act shall use a seal of such form and dimensions as are, for the time being, prescribed by the [3] [State Government].

PART III.

JURISDICTION.

Local limits of jurisdiction of District Court or Subordinate Judge.

10. The [3][State Government] shall fix, and may from time to time vary, the local limits of the jurisdiction of any [4] [District Court or Subordinate Judge's Court] under this Act:

[5] [* * * * * *].

The present local limits of the jurisdiction of every Civil Court (other than the High Court) shall be deemed to have been fixed under this Act.

Local jurisdiction of District Munsifs.

11. The High Court shall fix, and may from time to time modify, the local jurisdiction of District Munsifs.

[6][* * * * * *].

Jurisdiction of District Judge or Subordinate Judge in original suits.

12. The jurisdiction of a District Judge or a Subordinate Judge extends, subject to the rules contained in the Code of Civil Procedure, to all original suits and proceedings of a civil nature.

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[1] This sentence was added by section 2 of the Madras Civil Courts Act, 1885 (Central Act XXI of 1885).

[2] These sections were omitted by the Adaptation Order of 1937.

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] These words were substituted for the words "District Judge or Subordinate Judge" by section 4 (*a*) of the Madras Civil Courts (Amendment) Act, 1925 (Madras Act III of 1925).

[5] The proviso to section 10 was omitted by section 4 (*b*), *ibid.*,

[6] The second paragraph of section 11 which was added by section 3 of the Madras Civil Courts Act, 1885 (Central Act XXI of 1885), was omitted by section 5 *ibid.*

(*Part III.—Jurisdiction.*)

Jurisdiction of District Munsif.

The jurisdiction of a District Munsif extends to all like suits and proceedings, not otherwise exempted from his cognizance, of which the amount or value of the subject-matter does not exceed [1] [five thousand rupees].

Appeals from decrees of District Courts.

13. Regular or special appeals, [2][. . .] shall, when such appeals are allowed by law, lie from the decrees and orders of a District Court to the High Court.

Appellate jurisdiction of District Court.

Appeals from the decrees and orders of Subordinate Judges and District Munsifs shall, when such appeals are allowed by law, lie to the District Court, except when the amount or value of the subject-matter of the suit exceeds rupees five thousand, in which case the appeal shall lie to the High Court :

Appellate jurisdiction of Subordinate Judge.

Provided that, whenever a Subordinate Judge's Court is established in any district at a place remote from the station of the District Court, the High Court may, with the previous sanction of the [3] [State Government], direct that appeals from the decrees or orders of District Munsifs within the local limits of the jurisdiction of such Subordinate Judge be preferred in the Court of the latter :

Disposal of appeal by District Judge.

Provided also, that the District Judge may remove to his own Court, from time to time, appeals so preferred, and dispose of them himself, or may, subject to the orders of the High Court, refer any appeals from the decrees and orders of District Munsifs, preferred in the District Court, to any Subordinate Judge within the district:

[4] [Provided further that when the District Court or the Subordinate Judge's Court to which appeals lie is adjourned under section 30, the High Court shall have power to receive such appeals.]

Valuation of suits for immovable of property.

[5] **14.** When the subject-matter of any suit or proceeding is land, a house or a garden, its value shall, for the purposes of the jurisdiction conferred by this Act, be fixed in manner provided by the Court Fees Act, 1870, section 7, clause v.

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[1] These words were substituted for the words " three thousand " by section 2 (1) of the Madras Civil and Village Courts (Amendment) Act, 1951 (Madras Act XVI of 1951), which will come into force on such date as may be appointed by the Government.

[2] The words and figures " or appeals under Madras Regulation XI of 1832, section 9," were repealed by the Repealing and Amending Act, 1891 (Central Act XII of 1891).

[3] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] This proviso was added by section 2 of the Madras Civil Courts (Amendment) Act, 1945 (Madras Act XXII of 1945). This was permanently re-enacted by section 2 of and the First Schedule to the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[5] This section is repealed in local areas to which rules under section 3 of the Suits Valuation Act, 1887 (Central Act VII of 1887) apply—*see* section 6 of that Act.

(*Part III.—Jurisdiction.*)

Power to require witness or party to make oath or affirmation.

15. Every Court under this Act may require a witness or party to any suit or other proceeding pending in such Court to make such oath or affirmation as is prescribed by the law for the time being in force.

Law administered by Courts to Natives.

[1] **16.** Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage, or caste, or any religious usage or institution,

(*a*) the Muhammadan law in cases where the parties are Muhammadans and the Hindu law in cases where the parties are Hindus, or,

(*b*) any custom (if such there be) having the force of law and governing the parties or property concerned,

shall form the rule of decision, unless such law or custom has, by legislative enactment, been altered or abolished,

(*c*) in cases where no specific rule exists, the Court shall act according to justice, equity, and good conscience.

Judges not to try suits in which they are interested; nor to try appeals from decrees passed by them in other capacities.

17. No District Judge, Subordinate Judge or District Munsif shall try any suit to or in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

No District Judge or Subordinate Judge shall try any appeal against a decree or order passed by himself in another capacity.

Mode of disposing of such suits and appeals.

When any such suit, proceeding or appeal comes before any such officer, he shall report the circumstances to the Court to which he is immediately subordinate.

The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, section 6.[2]

Nothing in the last preceding clause of this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

[3][PART IV.]

[1] The provisions of this section in so far as they are inconsistent with the provisions of the Muhammadan Personal Law (Shariat) Application Act, 1937 (Central Act XXVI of 1937), have been repealed—*see* section 6 of that Act.

[2] *See* now the Code of Civil Procedure, 1908 (Central Act V of 1908), section 24.

[3] The whole of Part IV which contained sections 18 to 21 was omitted by the Adaptation Order of 1937.

(*Part V.—Ministerial Officers. Part VI.—Miscellaneous.*)

PART V.

MINISTERIAL OFFICERS.

[1]**22.** [* * * * *]

[1]**23.** [* * * * *]

[2][**24.** The Ministerial Officers of a Court shall perform such duties as may from time to time be imposed upon them by the presiding officer of the Court.] Duties of Ministerial Officers.

[3]**24-A.** [* * * * *].

PART VI.

MISCELLANEOUS.

[4][24-A. (1) Notwithstanding anything contained in this Act, a Subordinate Judge may, where the [5][State] Government so direct, be appointed for the area comprised within the local limits of the jurisdiction of two or more District Courts. Appointment of Subordinate Judge for two or more districts.

(2) A Subordinate Judge so appointed shall hold his Court at such place within the jurisdiction of each of the said District Courts and for such period as the High Court may from time to time fix.

(3) The local limits of the jurisdiction of the Subordinate Judge's Court, when it is held at any such place, shall be the same as those of the District Court concerned, but the Subordinate Judge's Court shall not entertain any original suit or proceeding and shall try or dispose of only such suits, appeals and other proceedings as may be transferred to it by the District Court under this Act or any other law.

(4) Appeals from the decrees and orders of the Subordinate Judge in suits or proceedings so transferred shall, where they lie to a District Court, lie to the District Court which transferred the suits or proceedings.]

25. In the event of the death of the District Judge, Temporary discharge of duties of District Judge.

or of his being incapacitated by illness or otherwise for the performance of his duties,

or his absence from the station in which his Court is held,

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[1] These sections were omitted by the Adaptation Order of 1937.

[2] This section was substituted for the original section by *ibid.*

[3] This section was omitted by *ibid.*

[4] This section was inserted by section 2 of the Madras Civil Courts (Amendment) Act, 1948 (Madras Act X of 1948).

[5] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

(*Part VI.—Miscellaneous.*)

[1] [the senior Additional District Judge or the Additional District Judge as the case may be or if there is no Additional District Judge], the senior Subordinate Judge of the District shall, without interruption to his ordinary duties, assume charge of the District Judge's office, and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the execution of processes and the like,

and shall continue in charge of the office until the same is resumed or assumed by an officer duly appointed thereto.

[2] **26.** [* * * * *].

District Judge to control Civil Courts of District.

27. Subject to the other provisions of this Act and to the rules for the time being in force and prescribed by the High Court in this behalf, the general control over all the Civil Courts under this Act in any district is vested in the District Judge.

Investiture of District or Subordinate Judge with Small Cause jurisdiction.

[3] **28.** The [4] [High Court] may, by notification in the official Gazette, invest within such local limits as it shall from time to time appoint,

any [5] [District or] Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts up to the amount of [6] [two thousand rupees],

Investiture of District Munsif with similar jurisdiction.

and any District Munsif with the same jurisdiction up to the amount of [7] [. . . .] [8] [five hundred rupees],

and may, by like notification, whenever it thinks fit, withdraw such jurisdiction from the [5] [District or] Subordinate Judge or Munsif so invested.

Exercise by Subordinate Judge of jurisdiction of District Judge in certain proceedings.

[9] [**29.** (1) The High Court may, by general or special order, authorize any Subordinate Judge to take cognizance of,

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[1] These words were inserted by section 6 of the Madras Civil Courts (Amendment) Act (Madras Act II of 1931).

[2] This section was omitted by the Adaptation Order of 1937.

[3] See section 2 (2) of the Madras Civil and Village Courts (Amendment) Act, 1951 (Madras Act XVI of 1951.)

[4] These words were substituted for the words "Local Government" by the Decentralization Act, 1914 (Central Act IV of 1914), Sch., Pt. I.

[5] These words were inserted by section 5 of the Madras Civil Courts Act, 1885 (Central Act XXI of 1885).

[6] These words were substituted for the words "rupees one thousand" by section 2 (2) of the Madras Civil and Village Courts (Amendment) Act, 1951, (Madras Act XVI of 1951), which will come into force on such date as may be appointed by the Government.

[7] The words "rupees fifty or on the recommendation of the High Court up to any amount not exceeding" were repealed by the Decentralization Act, 1914 (Central Act IV of 1914), Sch., Pt. I.

[8] These words were substituted for the words "rupees three hundred" by section 2 (2) of the Madras Civil and Village Courts (Amendment) Act, 1951, (Madras Act XVI of 1951), which will come into force on such date as may be appointed by the Government.

[9] This section was inserted by section 2 of the Madras Civil Courts (Amendment) Act, 1926 (Central Act XIV of 1926).

Central Act. XXXIX of 1925.

or any District Judge to transfer to any Subordinate Judge under his control, any proceedings under the Indian Succession Act, 1925, which cannot be disposed of by District Delegates.

(2) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Subordinate Judge, and may either himself dispose of them or transfer them to a Court under his control competent to dispose of them.

(3) Notwithstanding anything contained in section 13, proceedings taken cognizance of by, or transferred to, a Subordinate Judge under the provisions of this section shall be disposed of by him subject to the law applicable to like proceedings when disposed of by the District Judge.]

Vacation.

30. The High Court may permit the Civil Courts under its control to adjourn from time to time for periods not exceeding in the aggregate two months in each year.

SCHEDULE.

[*Repealed by the Repealing Act,* 1873 (*Central Act XII of* 1873).]

THE CENTRAL PROVINCES LAND-REVENUE ACT, 1881 (XVIII OF 1881).

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SCHEDULE—[*Repealed.*]

(*Part I, Chapter I.—Preliminary.*)

ACT No. XVIII OF 1881.[1]

[THE CENTRAL PROVINCES LAND-REVENUE ACT, 1881.]

[*8th June 1881.*]

An Act to consolidate and amend the law relating to land-revenue and the powers of Revenue-officers in the Central Provinces.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to Land-revenue and to the powers of Revenue-officers in the Central Provinces; It is hereby enacted as follows :—

PART I.

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called the Central Provinces Land-revenue Act, 1881.

Local extent.

It extends to all the territories [2][* * *] under the administration of the Chief Commissioner of the Central Provinces * * *[3];

Commencement.

and it shall come into force on such day [4]as the Chief Commissioner, with the previous sanction of the Governor-General in Council, may direct by notification in the local official Gazette.

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[1] For Statement of Objects and Reasons, *see Gazette of India*, 1830, Pt. V, p. 263; for Proceedings in Council, *see ibid.*, Supplement, pp. 1148 and 1302, and *ibid.*, 1881, Supplement, pp. 647 and 669.

The Act, with certain modifications, is in force in the taluqs of Nugur, Albaka and Cherla which ceased to be under the administration of the Chief Commissioner of the Central Provinces and became subject to the Government of Madras in pursuance of Proclamation No. 545, dated the 15th April 1909, issued by the Governor-General in Council under s. 4 of the Government of India Act, 1865, with effect from the first day of July 1909—*see* Regulation I of 1909, s. 3.

[2] The words "for the time being" were omitted by the Adaptation Order of 1937.

[3] The words and figures "except those specified in Pt. VI of the first schedule of the Scheduled Districts Act, 1874" (Central Act XIV of 1874), were repealed by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 3.

[4] The 4th November 1881, *see* Central Provinces Gazette, 1881, Pt. II, p. 176.

(*Part I, Chapter I.—Preliminary.*)

2. [*Enactments repealed.*] *Rep., Central Act XII of* 1891.

3. [*Pending proceedings.*] *Rep., Central Act XII of* 1891.

4. In this Act, unless there is something repugnant in the subject or context,— Interpretation clause.

(1) "Assistant Commissioner" includes also "Extra Assistant Commissioner".

(2) "legal practitioner" means an advocate, vakil or attorney of any High Court, a pleader, mukhtar or revenue-agent.

(3) "village-cess" means any cess which a person resident or holding lands in a village pays or renders to the proprietors as such of the village, [1][or to their transferees or assignees as such or to the patel], and includes service rendered or things furnished as well as money paid:

(4) "recognized agent" means a person authorized in writing by any party to a proceeding under this Act to make appearances and applications and to do other acts on his behalf in such proceeding and also belonging to any class which the [2][State Government] may, from time to time, by notification in the official Gazette, declare in this behalf.

(5) "agricultural year" means the year commencing on the first day of June, or on such other date as the [2][State Government] may, in the case of any specified district or districts, from time to time appoint:

[3](6) * * * *

[4][(6-*a*) "survey-number" means a local area held by or intended to be settled with, a raiyat under a separate assessment of land-revenue in a village or estate which is the property of the Government.]

(7) "mahál" means any local area held under a separate engagement for the payment of the land-revenue direct to Government, and includes also any local area declared,

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[1] These words were inserted by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 4.

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] Cl. (6), which was substituted for the original clause by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 5, was repealed by s. 2 of the Central Provinces Land-revenue Act, 1898 (Central Act XII of 1898).

[4] Cl. (6-*a*) was inserted by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 6.

under the provisions of this Act, to be a mahál [1][but does not include a survey number :]

(8) " village " includes any tract of land which, at the last settlement of such land, has been recognized as a village, or which the [2][State Government] may, from time to time, declare to be a village for the purposes of this Act :

[3][(8-*a*) " proprietor", except in section 4, clause (*b*), and in sections 61, 62, 63 and 69, includes a gaontia of a Government village in the Sambalpur district :]

(9) " malguzár " means a person who, under the provisions of this Act, has accepted, or is to be deemed to have accepted, the assessment of a mahál, and includes his representatives and assigns, and also any person with whom a settlement has been made before this Act comes into force, and his representatives and assigns :

[4][(10) " málik-makbuzá " means any person owning one or more plots of land separately assessed with revenue in a mahál ; and who is not a malguzár, inferior proprietor or member of the proprietary body of the mahál :]

(11) " lambardár " means a person appointed in manner prescribed by this Act to represent the proprietary body of a mahál in its relations with the Government :

(12) " sub-lambardár " means a person so appointed to represent the inferior proprietary body of a mahál in its relations with the superior proprietors :

(13) " mukaddam " means the executive headman of a village, appointed in manner prescribed by this Act :

[5][(13-*a*) " patel " means a person appointed in manner prescribed under this Act to represent a body of Government raiyats in their dealings with the Government :]

[5][(13-*b*) " patti " means the lands allotted to any sharer or body of co-sharers in a mahál by an imperfect partition under this Act :]

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[1] These words were added by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 7.

[2] The words " Provincial Government " were substituted for the words " Chief Commissioner " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[3] Cl. (8-*a*) was inserted by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 8.

[4] This clause was substituted for the original clause (10) by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 9. The original clause was as follows : " ' Malik Makbuza ' means any person owning one or more plots of land assessed with revenue in a mahal ; but it does not include a malguzár or inferior proprietor."

[5] Clauses (13-*a*) and (13*b*) were inserted by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 10.

(14) "tenant" means a person who holds land of another person, and is, or but for a special contract would be liable to pay rent for such land to such other person; but it does not include a farmer, mortgagee or thikadár of proprietary rights;

[1] [*Explanation I.*—An inferior proprietor is not, as such, a tenant;]

[1] [*Explanation II.*—The holder of a survey number in a village let in farm by the Government, or held by a gaontia in the Sambalpur district, is a tenant of the farmer or gaontia for the time being;]

[1] [*Explanation III.*—A person who is not an absolute occupancy-tenant or an occupancy-tenant and who holds land from a málik-makbuzá or from the holder of a survey number is a sub-tenant of that land;]

(15) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him;

(16) "absolute occupancy-tenant" means, in reference to any land, a tenant who, at a settlement of such land made before this Act comes into force [2], or after such a settlement but before this Act comes into force was recorded, by order of a Revenue or Settlement officer, in respect of such land as an "absolute occupancy-raiyat", or in terms equivalent thereto;

(17) "record-of-rights" includes the supplementary administration paper prepared at or after the time of making a settlement before this Act comes into force. [2]

Meaning of "sir-land".

[3] [**4-A.** (1) Subject to the provisions of sub-section (2) "sír-land" (that is to say, the demesne or permanent home-farm land of a proprietor) includes the following, and no other land, namely:—

(*a*) land finally recorded under section 69 as "sír-land" in the papers of the current settlement;

(*b*) land declared, under section 132, clause (*j*), to be "sír-land"; and

(*c*) land in the Sambalpur district recorded as "bhogra" in the papers of the current settlement.

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[1] These *Explanations* were substituted for the original *Explanation* by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 11. The original *Explanation* ran as follows: "*Explanation.*—An nferior proprietor is not, as such, a tenant."

[2] The 4th November 1881. *See* Central Provinces Gazette, 1881, Pt. II, p. 176.

[3] Section 4-A was inserted by s. 2 of the Central Provinces Land-revenue Act, 1898 (Central Act XII of 1898).

Temporary provisions for districts not settled since 1889.

(2) In any local area of which no settlement has been made since the commencement of the Central Provinces Land-revenue Act, 1889, and until the settlement of such local area next following the commencement of the Central Provinces Land-revenue Act, 1898, " sír-land " includes— Central Act XVI of 1889. Central Act XII of 1898.

(*a*) land defined as sír-land in the foregoing sub-section :

Provided that any such land (other than bhogra) which, at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied by such proprietor, and which had, after the date of the settlement last preceding the commencement of the said Act, been so unoccupied for a period of six consecutive years shall not be deemed to be " sír-land " ; Central Act XVI of 1889.

(*b*) land which at the commencement of the Central Provinces Land-revenue Act, 1889, was occupied by and had been cultivated by the proprietors or one of the proprietors thereof for a period of not less than twelve consecutive years ; Central Act XVI of 1889.

(*c*) land which had at the commencement of the Central Provinces Land-revenue Act, 1889, been broken up from waste by the proprietor or one of the proprietors thereof and cultivated by him for a period of not less than six consecutive years : Central Act XVI of 1889.

Provided that any such land which at the commencement of the Central Provinces Land-revenue Act, 1889, was unoccupied by the proprietor, and had been so unoccupied by him for six consecutive years shall not be deemed to be " sír-land ". Central Act XVI of 1889.

Explanation I.—For the purposes of sub-section (2), land shall be deemed to be occupied by the proprietor when it is leased out by him with an express reservation of his sír-rights, and land shall be deemed to be cultivated when it is allowed to lie fallow in accordance with the usual practice of cultivation.

Explanation II.—For the purposes of this section—

(*a*) the word " proprietor " shall be deemed to include an assignee of proprietary rights, but not a málik-makbuzá ;

(*b*) when by any local custom land is liable to exchange or redistribution among the cultivators thereof, land which is not " sír-land ", and which is taken in exchange for " sír-land ", becomes " sír-land " and the " sír-land " given in exchange for that land ceases to be " sír-land " ;

(*c*) subject to the proviso to sub-section (2), clause (*a*), land which has been recorded as " sír-land " in the papers of any settlement made before the commencement of this Act shall be deemed to have been finally recorded as " sír-land " under section 69.]

(Part II, Chapter II.—Of Revenue-officers ; their Powers and Procedure.)

PART II.

CHAPTER II.

OF REVENUE-OFFICERS ; THEIR POWERS AND PROCEDURE.

Revenue-officers.

[1]5. There shall be the following classes of Revenue-officers, namely :—

[2][* * *]
the Financial Commissioner,
Commissioners,
Deputy Commissioners,
Assistant Commissioners,
Táhsildárs,
Nàib Tàhsíldárs.

Subordination of officers.

[1]6. [3][(1) * * * * *]

(2) The Financial Commissioner shall be subject to the control of the [4][State Government].

(3) All other Revenue-officers shall be subordinate to the [4][State Government] and the Financial Commissioner ; all Revenue-officers in a division shall be subordinate to the Commissioner of the division ; and all Revenue-officers in a district shall be subordinate to the Deputy Commissioner of the district.

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[1] These sections were substituted for the original sections 5 and 6 by the Central Provinces' Financial Commissioner's Act, 1908 (Central Act XIII of 1908), s. 4, with effect from the 10th December 1908, when that Act was brought into force, *see* s. 1 of that Act, and Central Provinces Gazette, 1908, Pt. I, p. 920.

The original sections 5 and 6 were as follows :—

"5. The Chief Commissioner shall, subject to the control of the Governor-General in Council, be the Chief Controlling Revenue-authority.

"6. (1) Besides the Chief Commissioner, there shall be the following classes of Revenue-officers, namely :—

Commissioners ;
Deputy Commissioners ;
Assistant Commissioners ;
Táhsíldárs ;
Náib Táhsíldárs.

(2) All Revenue-officers are subordinate to the Chief Commissioner ; all Revenue-officers in a division are subordinate to the Commissioner of the division ; and all Revenue-officers in a district are subordinate to the Deputy Commissioner of the district.

(3) An officer in charge of a village-survey in a district which is not under settlement may be invested by the Chief Commissioner with the powers of a Revenue-officer of any class, and when so invested, shall be subordinate to such officer or officers as the Chief Commissioner may direct."

[2] The words "the Chief Commissioner" were omitted by the Adaptation Order of 1937.

[3] This sub-section was omitted by *ibid*.

[4] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(Part II, Chapter II.—Of Revenue-officers; their Powers and Procedure.)

(4) An officer in charge of a village-survey in a district which is not under settlement may be invested by the [1] [State Government] with the powers of a Revenue-officer of any class, and, when so invested, shall be subordinate to such officer or officers as the [1] [State Government] may direct.

Appointment of Commissioners, Deputy and Assistant Commissioners.

7. [2] [* *] The [1] [State Government] shall appoint [3] [* * *] Commissioners, Deputy Commissioners and Assistant Commissioners.

Appointment of Táhsīldàrs and Náib Táhsíldárs.

8. The [1] [State Government] shall appoint [3] [* * *] Táhsíldárs; and may also make rules for regulating the appointment, [4] [and duties] of Náib Táhsíldárs.

Persons holding office when Act comes into force.

9. All Commissioners, Deputy Commissioners, Assistant Commissioners, Táhsíldárs and Náib Táhsíldárs holding office as such in the territories to which this Act extends when this Act comes [5] into force shall be deemed to have been appointed hereunder.

Power to appoint additional Commissioners, Deputy Commissioners and Tàhsíldàrs.

10. The [1] [State Government] may appoint any person to be an additional Táhsíldár in any Táhsíl, or [6] [* * *] to be an additional Commissioner or additional Deputy Commissioner in any division or district, [7] [* * *].

The [1] [State Government] may invest any additional Commissioner, Deputy Commissioner or Táhsíldár appointed under this section with all or any of the powers conferred by this Act on a Commissioner, Deputy Commissioner or Táhsíldár as the case may be.

State Government may invest Assistant Commissioner with powers of Deputy Commissioner.

11. The [1] [State Government] may invest any Assistant Commissioner attached to a district with all or any of the powers conferred by this Act on Deputy Commissioners.

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[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "Subject to the control of the Governor-General in Council" were omitted by the Adaptation Order of 1937.

[3] The words "and may suspend or remove" were omitted by the Adaptation Order of 1937.

[4] These words were substituted for the words "duties, suspension and removal" by *ibid.*

[5] The Act came into force on 4th November, 1881; *see* Central Provinces Gazette, 1881, Pt. II, p. 176.

[6] The words "with the sanction of the Governor-General in Council" were omitted by the Adaptation Order of 1937.

[7] The words "and may suspend or remove any person so appointed, but subject, in the case of an additional Commissioner, or additional Deputy Commissioner, to the like sanction," were omitted by *ibid.*

(*Part II, Chapter II.—Of Revenue-officers; their Powers and Procedure.*)

Officers transferred to retain powers with which they were invested.

12. Whenever any Assistant Commissioner, Táhsíldár or Náib Táhsíldár is transferred from one district or tahsíl to another, he shall, unless the [1] [State Government] otherwise directs, exercise in the district or tahsíl to which he is transferred all the powers with which he was, under any provision of this Act, invested by the [1] [State Government] in the district or tahsíl from which he is transferred.

Provision for discharge of duties of Deputy Commissioner dying or being disabled.

13. When a Deputy Commissioner dies or is disabled from performing his duties, such officer as the [1] [State Government] may by rule direct, shall take executive charge of his district, and shall be deemed to be a Deputy Commissioner under this Act until a successor to the Deputy Commissioner so dying or disabled is appointed and such successor takes charge of his office, or until the person so disabled resumes charge of his office.

State Government may alter limits of district or tahsíl.

14. The [1] [State Government] may, from time to time, by notification in the official Gazette, alter the limits of any district or tahsíl, create new districts or tahsíls and abolish existing districts or tahsíls.

Power to invest Revenue-officers—with power conferred by Code of Civil Procedure; with power to delegate powers.

15. The [1] [State Government] may, [2] [* * *] invest any Revenue-officer with any of the following powers :—

for the purpose of disposing of cases under this Act, any power conferred by the [3] [Code of Civil Procedure] on a Civil Court ;

power to delegate to any Revenue-officer subordinate to him the exercise of any power or performance of any duty conferred or imposed on him by this Act ;

and, subject to the like control, may determine the Revenue-officer by whom any case or class of cases for which no express provision in this behalf is made in this Act shall be disposed of.

Power of Deputy Commissioner to distribute work.

16. Subject to any rules which the [1] [State Government] may make in this behalf, a Deputy Commissioner may—

(*a*) refer any case to any Revenue-officer subordinate to him for investigation and report, or, if such officer has power to dispose of such case, for disposal ; or

(*b*) direct that any Revenue-officer subordinate to him shall, without such reference, deal with any case or class of cases arising within any specified area, and either investigate

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[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "subject to the control of the Governor-General in Council" were omitted by the Adaptation Order of 1937.

[3] *See* now the Code of Civil Procedure, 1908 (Central Act V of 1908).

and report on such case or class, or, if he has power, dispose of it himself.

The Subordinate Revenue-officer shall submit his report on any case referred to him under this section for report to the Deputy Commissioner, or otherwise, as may be directed in the order of reference; and the officer receiving such report may, if he has power to dispose of the case, dispose of the same, or may return it for further investigation to the officer submitting the report, or may hold such investigation himself.

Power of superior Revenue-authorities to withdraw and transfer cases.

17. The [1][State Government] [2][or the Financial Commissioner], the Commissioner or the Deputy Commissioner may withdraw any case pending before any Revenue-officer subordinate to [3][it or] him, and either dispose of it [4][itself or] himself, or refer it for disposal to any other Revenue-officer subordinate to [3][it or] him and having power to dispose of the same.

Power of Revenue-officers to enter on land, etc.

18. All Revenue-officers, and persons acting under their orders may, in the performance of any duty under this Act, enter upon and survey land, and demarcate boundaries, and do all other acts necessary to the business in which they are engaged.

Power for Revenue and Settlement-officers to require attendance of persons and production of documents.

[5]**18-A.** (1) Any Revenue-officer or class of Revenue-officers and any officer appointed to make a settlement may, if specially empowered in this behalf by the [1][State Government], order all persons whose presence may be, in the opinion of the officer making the order, necessary for any of the purposes of this Act to attend either in person or by authorized agent at any specified time and place, and may also direct them to produce any written document in their possession, and all such persons shall be legally bound to obey the order.

(2) The power to require the attendance of parties in person shall, so far as may be, be subject to the provisions of section 176 of the [6] Code of Civil Procedure.

Power to make rules to regulate procedure.

19. The [1][State Government] may, [7][* * *] make rules consistent with this Act for regulating the procedure of Revenue-officers in cases for which a procedure is not

[1] Tho words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were inserted by the Central Provinces Financial Commissioner's Act, 1908 (Central Act XIII of 1908), s. 5, with effect from the 10th December 1908, when that Act was brought into force, *see* note to s. 5 *ante*.

[3] These words were substituted for the word "him" by the Adaptation Order of 1937.

[4] These words were substituted for the word "himself" by *ibid.*

[5] Section 18-A was inserted by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 13.

[6] *See* now the Code of Civil Procedure, 1908 (Central Act V of 1908).

[7] The words "with the previous sanction of the Governor-General in Council" were omitted by the Adaptation Order of 1937.

prescribed by this Act, and may by any such rule direct that any provisions of the [1] Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before Revenue officers.

Persons by whom appearances and applications may be made before and to Revenue-officer. Obligation of parties to attend in person.

20. All appearances before, applications to, and acts to be done before any Revenue-officer under this Act may be made or done—

(*a*) by the parties themselves ; or

(*b*) with the permission of the officer, by their recognized agents or any legal practitioner :

Provided that the employment of a legal practitioner or recognized agent shall not excuse the personal attendance of a party to any proceeding in cases where such attendance is required by any order of the Revenue-officer.

Legal practitioner's or agent's fees not allowed unless for special reasons.

21. The fees of a legal practitioner or recognized agent shall not be allowed as costs before any Revenue-officer unless such officer considers, for reasons to be recorded by him in writing, that such fees should be allowed.

Appeals.

22. An appeal shall lie against every decision or order under this Act—

(*a*) when such decision or order is passed by any Revenue-officer subordinate to the Deputy Commissioner, except an Assistant Commissioner, exercising the powers of a Deputy Commissioner—to the Deputy Commissioner ;

(*b*) when such decision or order is passed by a Deputy Commissioner, or by an Assistant Commissioner exercising the powers of a Deputy Commissioner, whether in the first instance or on appeal—to the Commissioner of the division ;

(*c*) when such decision or order is passed on appeal or otherwise by the Commissioner of a division—to the [2][Financial Commissioner] :

Provided that in no case shall a third appeal be allowed.

Limitation of appeals.

23. No appeal shall lie—

(*a*) in the Court of the Deputy Commissioner or an Assistant Commissioner exercising the powers of a Deputy Commissioner—after the expiration of thirty days from the date of the decision or order complained of ; or

(*b*) in the Court of the Commissioner—after the expiration of sixty days from such date ; or

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[1] *See* now the Code of Civil Procedure, 1908 (Central Act V of 1908).

[2] The words "Financial Commissioner" were substituted for the words "Chief Commissioner" by the Central Provinces Financial Commissioner's Act, 1908 (Central Act XIII of 1908), s. 6, which came into force on the 10th December 1908, *see* note to s. 5 *ante*.

(Part II, Chapter II.—Of Revenue-officers ; their Powers and Procedure.)

(*c*) in the Court of the [1][Financial Commissioner]— after the expiration of ninety days from such date. Central Act XV of 1877.

In computing such periods of limitation, and in all respects not herein specified the provisions of the Indian Limitation Act, 1877[2] shall apply.

Powers of revision of Commissioner and Deputy Commissioner.

24. Any Commissioner or Deputy Commissioner may at any time, for the purpose of satisfying himself as to the legality or propriety of any order passed by, and as to the regularity of the proceedings of, any Revenue-officer subordinate to him, call for and examine the record of any case pending before, or disposed of by, such officer, and may pass such order in reference thereto as he thinks fit :

Provided that he shall not under this section modify or reverse any order affecting any question of right between private persons, without having given to the parties interested reasonable notice to appear and be heard in support of such order.

Powers of revision of State Government.

25. The [3][State Government] [4][or the Financial Commissioner] may at any time call for and examine the record of any case pending before, or disposed of by, any Revenue-officer, and may pass such order in reference thereto as [5][it or] he thinks fit :

Provided that no order affecting any question of right between private persons shall be passed under this section unless the [3][State Government] [4][or the Financial Commissioner] has given the parties interested an opportunity of being heard.

Review of orders.

26. Every Revenue-officer may, either on his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, orders passed by himself or by any of his predecessors in office :

Provided as follows :—

(1) when a Commissioner or Deputy Commissioner thinks it necessary to review any order which he has not himself passed, and when an officer under the rank of a Deputy Commissioner proposes to review any order, whether passed

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[1] The words "Financial Commissioner" were substituted for the words "Chief Commissioner" by the Central Provinces Financial Commissioner's Act, 1908 (Central Act XIII of 1908), s. 6, which came into force on the 10th December 1908, *see* note to s. 5 *ante*.

[2] *See* now the Indian Limitation Act, 1908 (Central Act IX of 1908).

[3] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] These words were inserted by the Central Provinces Financial Commissioner's Act, 1908 (Central Act XIII of 1908), s. 5, which was brought into force on the 10th December 1908, *see* note to s. 5 *ante*.

[5] The words were substituted for the word "he" by the Adaptation Order of 1937.

(Part II, Chapter II.—Of Revenue officers; their Powers and Procedure. Part III.—Of Survey and Settlement. Chapter III.—Preliminary.)

by himself or by any predecessor, he shall first obtain the sanction of the officer to whom he is immediately subordinate :

(2) no order shall be modified or reversed unless reasonable notice has been given to the parties interested to appear and be heard in support of such order :

(3) no order against which an appeal has been preferred shall be reviewed while such appeal is pending :

(4) no order affecting any question of right between private persons shall be reviewed except on the application of a party to the proceedings ; and no application for the review of such an order shall be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within such period.

For the purposes of this section, the Deputy Commissioner shall be deemed to be the successor in office of any Revenue-officer who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

PART III.

Of Survey and Settlement.

CHAPTER III.

PRELIMINARY.

Notification of revenue-survey.

27. Whenever it appears to the [1][State Government] that a revenue-survey should be made in any local area, [2][it] shall publish a notification in the official Gazette directing that such survey be made and cause translations of such notification in the language of the district to be posted up in conspicuous places in such area ; and thereupon all officers in charge of such survey, their assistants, servants, agents and workmen, may enter upon the lands to be surveyed, and erect survey marks, and do all other acts necessary for making the survey.

Effect thereof.

Notification of settlement.

28. When any local area is to be settled, the [1][State Government] may [3][* * * *] issue a notification of settlement, and in such notification shall—

(*a*) define the local area to be settled ;

[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] This word was substituted for the word "he" by the Adaptation Order of 1937.

[3] The words "with the previous sanction of the Governor-General in Council" were omitted by *ibid.*

(*b*) specify the operations which are to be carried out in the settlement :

Power to amend notification.

and may from time to time with the like sanction amend, alter or cancel such notification.

Every such notification, amendment, alteration and cancellation shall be published in the [1] [official Gazette].

Power to appoint Settlement officers.

29. The [2] [State Government] may from time to time appoint one or more officers (hereinafter called Settlement-officers) to make the settlement of such area ; and, when [2] [it] appoints more than one such officer, [3] [it] shall appoint one of them (hereinafter called the Chief Settlement-officer) [4] to control such settlement, and all other officers appointed for the purposes of such settlement shall be subordinate to the Chief Settlement-officer.

[5] [* * *]

Settlement-officer may be invested with powers of Deputy Commissioner.

30. During the progress of the settlement of any local area, the [2] [State Government] may invest any Settlement-officer within such area with all or any of the powers of a Deputy Commissioner under this Act, to be exercised by him in such classes of cases as the [2] [State Government] may from time to time direct.

Certain provisions of Chapter II applied to Settlement-officers.

31. The provisions of section 11 and sections 15 to 26, both inclusive, shall apply, *mutatis mutandis*, to Settlement-officers and to proceedings before them, the expression "Settlement-officer" being read for the expressions "Assistant Commissioner" and "Revenue-officer," and the expression "Chief Settlement-officer" for the expression "Deputy Commissioner," wherever those expressions occur :

Provided that an appeal from any appealable order passed by a subordinate Settlement-officer shall lie to the Chief Settlement-officer if preferred within sixty days from the date of such order :

Provided also that no appeal shall lie from any decision of a Chief Settlement-officer which can be called in question in a Civil Court.

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[1] These words were substituted for the words "local official Gazette" by the Adaptation Order of 1937.

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This word was substituted for the word "he" by the Adaptation Order of 1937.

[4] Notwithstanding anything contained in s. 29, the Chief Commissioner shall be deemed to have, and to have had, authority to assign to the Settlement-officer the title "Assistant Settlement-officer" and to the Chief Settlement-officer the title "Settlement-officer"—*see* the Central Provinces Land revenue Act, 1889 (Central Act XVI of 1889), s. 40.

[5] The second paragraph was omitted by the Adaptation Order of 1937.

(Part III.—Of Survey and Settlement. Chapter III.—Preliminary.)

32. The [1][State Government] may, from time to time [2][* * *],—

Appointment of Settlement-commissioner.

(*a*) appoint a Settlement-commissioner and transfer to him, within any local area under settlement, all or any of the powers which the Commissioner of the division, if the land to be settled were wholly situate within such division, would otherwise exercise under this Act in matters connected with such settlement; and

Delegation to him of State Government's powers.

(*b*) delegate to the Settlement-commissioner such of [3][its] own powers in regard to matters connected with such settlement as [4][it] thinks fit.

Central Act XVI of 1885.

Power to invest Settlement-officers with Civil Court powers.

33. When any local area is under settlement, the [1][State Government] may invest any subordinate Settlement-officer with the powers of any of [5][the last five classes] of Courts described in section 4 of [6][the Central Provinces Civil Courts Act, 1885], and the Chief Settlement-officer with the powers of a Court of a Deputy Commissioner described in the same Act, [7][section 7], for the trial, in the first instance, of any of the following classes of suits instituted within such area (namely):—

(*a*) suits for arrears of rent due on account of any right of pasturage, forest-rights, fisheries or the like;

(*b*) suits by lambardars for arrears of revenue payable through them by the proprietors whom they represent;

(*c*) suits by proprietors for their share of the profits of an estate or any part thereof after payment of the revenue and village-expenses, or for a settlement of accounts;

(*d*) suits by muáfidárs or assignees of revenue for arrears of revenue owing to them as such muáfidárs or assignees;

(*e*) suits by superior proprietors for arrears of revenue due to them as such superior proprietors;

(*f*) suits by proprietors and others in receipt of the rent of land against any agents employed by them in the

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[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "with the previous sanction of the Central Government" were omitted by the Central Provinces Land-revenue (Amendment) Regulation, 1939 (Madras Regulation I of 1939).

[3] This word was substituted for the word "his" by the Adaptation Order of 1937.

[4] This word was substituted for the word "he" by *ibid.*

[5] These words were substituted for the words "the first five grades, etc.", by the Amending Act, 1891 (Central Act XII of 1891).

[6] These words and figures were substituted for the words and figures "the Central Provinces Courts Act, 1865," by *ibid.*

[7] The word and figure in square brackets were substituted for the words and figures "sections 12, 19 and 20" by *ibid.*

management of land or collection of rents, or against the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession ;

(*g*) suits regarding any matter which a Settlement-officer is required to decide or to enter in the record-of-rights, and of which Civil Courts can take cognizance ;

(*h*) suits relating to land, or the rent, profits or occupation of land.

Chief Settlement-officer to have powers of Deputy Commissioner. Central Act. of XVII 885.

34. When the [1][State Government] invests any subordinate Settlement-officer with the powers of a Civil Court for the trial of any of the suits mentioned in section 33, the Chief Settlement-officer to whom such Settlement-officer is subordinate shall have the powers of the Court of a Deputy Commissioner described in [2][the Central Provinces Civil Courts Act, 1885, section 16, and section 17, sub-section (1), and the powers of a Court of a Commissioner described in the same Act, section 15, sub-section (1)] with reference to proceedings before, or decrees and orders of, such Settlement-officer in such suits.

Appeals in suits specified in section 33 when to lie to Chief Settlement-officer.

35. When any local area is under settlement and Settlement-officers have been invested with the powers mentioned in section 33 in such local area, the [1][State Government] may, with respect to all or to any of the suits specified in that section, declare that all or any of the decrees and orders passed in exercise of the powers of Courts [2][of the last four classes] aforesaid, by Assistant Commissioners or Tàhsildàrs not being Settlement-officers, shall be appealable to the Chief Settlement-officer, and not to the Deputy Commissioner of the district.

Division of civil work between Settlement-officers and ordinary Courts.

36. When any local area is under settlement and the Settlement-officers therein have been invested with powers under section 33, the [1][State Government] may withdraw from the jurisdiction of the ordinary Civil Courts within such area the classes of suits which Settlement-officers have power to dispose of under that section, or [4][it] may direct that, in respect of such suits the Settlement-officers shall have concurrent jurisdiction with the ordinary Civil Courts :

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[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words and figures were substituted for the words and figures "the Central Provinces Courts Act, 1865, ss. 12, 19 and 20," by the Amending Act, 1891 (Central Act XII of 1891).

[3] These words were substituted for the words "the first four grades" by *ibid*

[4] This word was substituted for the word "he" by the Adaptation Order of 1937.

Provided that no proceedings which have been inadvertently or erroneously taken before the Civil Court shall be deemed to be invalid merely on the ground that, by the [1][State Government's] order, they should have been taken before a Settlement-officer.

Provisions of section 31 not to apply to certain suits.

37. Nothing in section 31 shall apply to suits and appeals or other proceedings instituted before, or determined by, Settlement-officers in pursuance of powers conferred upon them under section 33, 34 or 35.

Appeal, reference and revision.

38. Except as provided in sections 33, 34 and 35, the decrees and orders of a Settlement-officer passed, whether in the first instance or on appeal, in exercise of the powers of a Civil Court of any grade, shall, for the purposes of appeal, reference and revision, be deemed to be decrees and orders of a Civil Court of such grade, and no appeal shall lie under the provisions of section 22 from such decrees or orders.

Duration of settlement operations.

39. Every settlement notified under section 28 shall be deemed to be in progress until the [2][State Government], by notification in the official Gazette, declares that it is completed.

Cases pending at close of settlement operations.

When the settlement of any local area has been notified as completed, all the powers exercised by the Settlement-officers in such area shall cease, and all suits and applications pending before such officers shall be transferred to such of the Courts ordinarily having jursidiction in such cases as the Commissioner of the division directs, or, if there are no such Courts, shall be disposed of in such manner as the [2][State Government] directs.

CHAPTER IV.

Of Demarcation.

Unowned Lands.

Settlement officer to invite claims to lands appearing to have no owner.

40. When any local area is under settlement, the Settlement-officer shall make lists of all lands in such area which appear to him to have no lawful owner, and shall thereupon issue a notification declaring his intention to demarcate such lands as the property of the Government, and inviting every person having claims to or over them to present in his Court, within three months from the date of the notification, a

[1] The words "Provincial Government's" were substituted for the words "Chief Commissioner's" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

petition in writing setting forth such claims and the respective grounds thereof.

Application of Central Act XXIII of 1863.

41. Every such notification shall be deemed to be an advertisement under [1] Central Act No. XXIII of 1863 (*to provide for the adjudication of claims to waste-lands*) section 1;

the demarcation of such lands shall be deemed to be a disposition of them within the meaning of that Act;

the Settlement-officer shall exercise all the powers vested in the Collector by that Act; and

claims to or over the land comprised in such notification shall be dealt with as nearly as may be in the manner prescribed in that Act.

Procedure when limited right over land established.

42. Whenever a claim to the exercise or enjoyment of any right (not amounting to the right of exclusive possession) in, to or over any land comprised in such notification is established, either before the Settlement-officer or before the Court constituted under the said [1] Central Act No. XXIII of 1863, section 7, the Settlement-officer may assign to the claimant as his property a definite portion of such land, or, with the sanction of the [2] [State Government], he [may otherwise compensate the claimant: and such assignment or compensation shall be held to extinguish all claims on account of such exercise or enjoyment.

Māhals.

Power to form mahàls.

43. The Settlement-officer may declare any local area to be a mahàl.

Excluded Lands.

Settlement-officer may exclude any town or land from settlement operations.

44. For the purpose of excluding from all or any of the operations of the settlement any town or any land from which the owner can derive no profit, the Settlement-officer may mark off the site and determine the limits of such town or land:

Provided that no land in respect of which land-revenue is payable at the date of the notification issued under section 28 shall, under this section, be exempted from assessment without the sanction of the [2] [State Government].

Boundary-marks.

Erection of new, and repair of existing, boundary marks.

45. When any local area is under settlement, the Settlement-officer may order all persons who have proprietary rights

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[1] The Waste Lands (Claims) Act, 1863.

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

in the land comprised in such area, [1] [or who are in possession of the whole or any part of the land as gaontias or as thíkadàrs of Government land, or as raiyats who have accepted the assessment of a survey-number], to erect boundary-marks of such description and at such places as he thinks necessary in order to define the limits of the mahàls, fields or other lands in their possession, or to repair boundary-marks already existing, and may fix a reasonable time for obeying his order ;

and, if his order is not obeyed within such time, may cause such marks to be erected or repaired under his own orders, and may recover the cost of such erection or repair from the persons against whom his order was made, in such proportion as he thinks fit.

CHAPTER V.

Of the Assessment of Land-revenue.

Separate sum to be assessed on every mahàl. Progressive assessments.

46. On every mahàl, a definite and separate sum shall be assessed as land-revenue ; but the sum so assessed may be reduced in such manner and to such extent as the [2] [State Government] thinks fit, for any period not exceeding ten years from the date on which the assessment takes effect :

[3][Provided that the [2] [State Government] may declare that any mahàl which consists wholly or principally of forest is a forest-mahàl, and may direct that the assessment shall be a specified share of the gross or net annual value of the produce of the mahàl to be determined from time to time for each year, or part of a year, or that the assessment shall be in the form of rates chargeable on the produce of the mahàl in each year or part of a year.]

Matters as to which State Government is to instruct Settlement-officer.

47. The [2] [State Government] may from time to time, [4][* * *] give instructions to the Settlement-officer as to the principle on which land-revenue is to be assessed, and as to the sources of miscellaneous income to be taken into account in the assessment.

What land taken into account in assessing mahà

48. In assessing a mahàl all land situate therein shall be taken into account except the following (that is to say) :—

(*a*) land purchased free from revenue under any rules for the time being in force to regulate the sale of waste-lands ;

[1] These words were inserted by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 14.

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This proviso was inserted by section 15 of the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889).

[4] The words "with the previous sanction of the Governor-General in Council" were omitted by the Adaptation Order of 1937.

(*b*) land in respect of which the revenue has been redeemed under any rules for the time being in force;

(*c*) land excluded from assessment under section 44;

(*d*) land in respect of which a claim to hold it free from revenue as against the [1][Government] is established under the provisions hereinafter contained;

(*e*) land which the [2][State Government] [3][* * *] may from time to time exempt from assessment.

Assessment to whom to be offered.

49. The assessment of every mahàl shall be offered to the entire proprietary body of such mahàl:

Provided that, when superior and infereior proprietary rights co-exist in the same mahàl, the Settlement-officer may, subject to such rules as the [2][State Government] may make in this behalf, determine whether the assessment shall be offered to the superior or to the inferior proprietors.

Subject to such rules as the [2][State Government] may make in this behalf, the Settlement-officer may determine the manner and proportion in which the proprietary profits of the mahàl shall be allotted between the superior and the inferior proprietors.

When a proprietor has mortgaged his rights in any mahàl, and the mortgagee has entered into possession, such mortgagee, so long as he is in possession, shall, for the purposes of this section, stand in the place of the mortgagor.

Sub-settlement to be made with inferior proprietors when settlement is made with superior.

50. When in a mahàl in which superior and inferior proprietors co-exist the Settlement-officer makes a settlement with the superior proprietors, he shall make on their behalf a sub-settlement with the inferior proprietors, by which such inferior proprietors shall be bound to pay to the superior proprietors an annual revenue equal to the land-revenue with which the mahàl is assessed and to the profits to which the superior proprietors are entitled under section 49.

Power to give directions as to payment of certain profits of superior proprietors.

51. When in any such mahàl the settlement is made with the inferior proprietors, the Settlement-officer may direct that the profits to which the superior proprietors are entitled under section 49 shall be paid by the inferior proprietors direct to such superior proprietors, or that such profits shall be collected as if they were land-revenue and shall be paid to the superior proprietors from the Government treasury.

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[1] The word "Crown" was substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] The words "subject to the control of the Governor-General in Council" were omitted by the Adaptation Order of 1937.

(Part III.—Of Survey and Settlement. Chapter V.—Of the Assessment of Land-revenue.)

Power to make rules for reporting assessment for sanction.

52. [1][State Government] may make rules prescribing the manner in which the Settlement-officer shall report for sanction his rates and method of assessment; and no assessment shall be offered without the previous sanction of the [1] [State Government].

Offers of assessment to be made subject to confirmation.

53. In making any offer of assessment, the Settlement-officer shall state that it is made subject to confirmation [2][* * *] by the [1] [State Government] [3][* * *].

Option to accept or refuse assessment.

Mode of acceptance.

54. It shall be in the option of the persons to whom an assessment is offered to accept or refuse the same.

If they are willing to accept it, they shall make and sign an acceptance in writing, in such form as the [1] [State Government] may, from time to time, prescribe in this behalf and deliver the same to the Settlement-officer.

Proprietor not accepting in manner prescribed may be deemed to have accepted.

[4]**55.** Any proprietor who, within such reasonable period as may be specified by the [1] [State Government], fails to make, sign and deliver such acceptance, or to inform the Settlement-officer that he refuses the proposed assessment, shall, if the Settlement-officer by an order in writing so directs, be deemed to have accepted such assessment.

Effect of acceptance of assessment.

[4]**56.** Whenever the assessment of a mahál has been accepted under this Act, the persons who have accepted it shall be bound to pay the amount thereof from such date and for such term as the [1] [State Government] may appoint in this behalf, or, if at the expiry of that term no new assessment has been made and is ready to take effect, until a new assessment has been made and is ready to take effect:

Málguzárs may object to continuance of assessment beyond term of settlement.

Provided [5] [that]

if all the málguzárs of a mahál, six months before the expiry of the term fixed under this section, apply in writing to the Deputy Commissioner stating that they are unwilling that the assessment should continue in force beyond the expiry of such term, the assessment shall, on the expiry of such term, cease to be in force.

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[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "by the Governor-General in Council and also to revision" were omitted by the Adaptation Order of 1937.

[3] The words "at any time before such confirmation is received" were omitted by *ibid.*

[4] As to the application of ss. 55 and 56 to raiyatwari settlements, see s. 67-G. infra.

[5] This word was substituted for the words "as follows:—

1st, any assessment may be rescinded by the Chief Commissioner at any time before it has been confirmed by the Governor-General in Council;

2ndly, the Governor-General in Council may rescind any assessment submitted to him for confirmation.

3rdly," by the Adaptation Order of 1937.

(Part III.—Of Survey and Settlement. Chapter V.—Of the Assessment of Land-revenue.)

When assessment is in form of rates, Deputy Commissioner to publish record of amount payable.

[1][56-A. (1) If the assessment accepted is a specified share of the produce of a forest-mahál to be determined from time to time or in the form of rates chargeable on the produce of a forest-mahál, the Deputy Commissioner shall, from time to time, as the conditions of the assessment may require, notify to the málguzár, on or before such date, or at such intervals as the [2][State Government] may prescribe, the amount payable in respect of the forest-mahál.

(2) The Deputy Commissioner and his subordinates may at any time enter on the forest-mahál and do all acts necessary for ascertaining the amount payable in respect thereof.]

Procedure when assessment is refused.

57. Where there is but one class of proprietors in a mahál and all refuse to accept in manner required by section 54 the assessment offered, the Settlement-officer may, with the previous sanction of the [2][State Government], exclude them from settlement for a period not exceeding thirty years from the date of such exclusion, and may either let the mahál in farm or take it under direct management.

Procedure when only some proprietors accept assessment.

58. If some of the proprietors consent, and some refuse so to accept the assessment offered, the Settlement-officer may, with the previous sanction of the [2][State Government], if the interest of the recusant proprietors in the lands taken into account in the assessment consists entirely of lands held by them separately from the other proprietors, exclude such recusant proprietors from settlement for a period not exceeding thirty years from the date of such exclusion and either let their lands in farm or take such lands under direct management.

In other cases the assessment of the entire mahál shall be offered to the proprietors who consented to accept the assessment when originally offered, and if they refuse it, the mahál shall be dealt with under the provisions of section 57.

When the recusant proprietors are excluded under this section, the lands of the proprietors who consented to accept the assessment originally offered shall be deemed to be a separate mahál and shall be assessed as such; and such assessment shall be offered to the proprietors so consenting; and, if the lands of the recusant proprietors are let in farm, the farm shall be first offered to the proprietors who consented to accept the assessment originally offered.

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[1] Section 56-A was inserted by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 16.

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(Part III.—Of Survey and Settlement. Chapter V.—Of the Assessment of Land-revenue.)

Procedure on refusal of assessment in village in which superior and inferior rights co-exist.

59. When an assessment is offered in a mahál in which both superior and inferior proprietors co-exist,—

(*a*) if all the proprietors of the class with which the Settlement-officer proposes to make the settlement refuse to accept as aforesaid the assessment offered, the assessment shall be offered to the proprietors of the other class; and, if all such proprietors refuse the assessment, the Settlement-officer shall proceed as provided in section 57;

(*b*) if some only of the proprietors of the class with which the Settlement-officer proposes to make the settlement refuse the assessment, he may either proceed as if all had refused it or may deal with the mahál under section 58:

Provided that, if, in the case contemplated by clause (*b*), the proprietors who consented to accept the assessment when originally offered refuse to accept it, such assessment shall be offered to the other class of proprietors.

Procedure on refusal of assessment by inferior proprietors.

60. If all or any of the inferior proprietors refuse any assessment offered under section 50, the Settlement-officer may exclude them all from the sub-settlement, and assign the proprietary management and profits of the mahàl to the superior proprietor for any term not exceeding the term of settlement.

Allowance to excluded proprietors.

61. Any proprietor excluded from settlement under section 57 or section 59, clause (*a*), shall be entitled to receive from the [1][State Government] an annual allowance, the amount of which shall be fixed by the [2][State Government], but which shall not be less than five per cent, or more than ten per cent, on the amount of the assessment offered to him by the Settlement-officer.

Excluded proprietors to have occupancy rights in their sir-land.

62. Any proprietor excluded from settlement or sub-settlement under sections 57 to 60, both inclusive, shall be entitled to retain possession of his sír-land (if any) as if he were an absolute occupancy-tenant, and the rent to be paid by him for such land during the term of his exclusion shall be fixed by the Settlement-officer accordingly.

Aggregate amount of allowance granted to, and deduction from rent allowed to, excluded proprietor.

63. The aggregate amount of any allowance under section 61, and of the difference between the rent fixed under section 62 and the rent which the excluded proprietor would be liable to pay if he were a tenant-at-will, shall not be less than five or more than fifteen per cent on the amount of the assessment offered to him by the Settlement-officer.

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[1] The words "Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(Part III.—Of Survey and Settlement. Chapter V.—Of the Assessment of Land-revenue.)

Sub-settlement with málik-mákbuzás and other like holders of land.

64. The Settlement-officer may make, on behalf of málik-mákbuzás or other like holders of land such a sub-settlement as shall secure to them from the málguzárs of the mahál their existing rights; and may provide that, in addition to the land-revenue payable by them, they shall pay to the málguzárs such percentage thereon, not exceeding twenty per cent, as may, in opinion, be sufficient to compensate the said málguzárs for their responsibility in respect of the land-revenue, and to provide for the fees of lambardárs and mukaddams.

Revenue payable under sub-settlement to be first charge on land.

65. The amount of revenue payable under a sub-settlement shall be a first charge upon all the land comprised in such sub-settlement.

Power to inquire into the claims of thikádárs, gaontiás and farmers.

[1] **[65-A.** (1) The Settlement-officer may inquire into the claim of any person holding from a proprietor a village or part of a village as thíkádár, gaontia or farmer, and may, notwithstanding any contract to the contrary, and with the previous sanction of the [2] [State Government], declare such thíkádár, gaontia or farmer to be " protected " for the purposes of this section :

Provided that no thíkàdàr, gaontia or farmer shall be declared to be protected under this section unless he or those from whom he has inherited has or have been in possession of the village or part of the village for a period of not less than twenty years, or unless it is proved to the satisfaction of the Settlement-officer that he or those from whom he has inherited has or have established the village or substantially improved it at his or their own cost :

Provided also that when a thíkádár, farmer or gaontia is entitled to claim protection within the meaning of this section, the Settlement-officer may, in his discretion, and with the previous sanction of the [2] [State Government], instead of declaring him to be protected, confer on him the rights of an occupancy-tenant in respect of the whole or part of any land which he may be cultivating whether as sír-land or otherwise, at the time of the inquiry, and shall determine the rent payable by him as occupancy-tenant of such land.

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[1] The present s. 65-A was substituted by s. 3 of the Central Provinces Land-revenue Act, 1898 (Central Act XII of 1898), for the s. 65-A inserted by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 17.

[2] The words " Provincial Government " were substituted for the words " Chief Commissioner " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

(*Part III.—Of Survey and Settlement. Chapter V.—Of the Assessment of Land-revenue.*)

(2) When a thíkádár, farmer or gaontia is declared to be protected under this section, the Settlement-officer may, at the request of the proprietor of the village, determine the amount of the thíká-jama which shall be payable by such thíkádár, gaontia or farmer to the proprietor of the village on and from the date on which the settlement of the village takes effect.

(3) Any person who, having held any village or part of a village as a thíkádár, farmer or gaontia, was ejected by the proprietor from, or lost possession otherwise than by transfer or voluntary surrender of, such village or part of a village, and who had at the date of such ejectment or dispossession earned a claim to be protected, may at any time before the expiration of two years from the date of such ejectment or dispossession apply to the Settlement-officer to reinstate him in the possession of the village or part of the village from which he was ejected; and the Settlement-officer may, with the previous sanction of the [1] [State Government], replace him in the possession of such village or part of a village and declare him to be protected, or may confer upon him the rights of an occupancy-tenant in the whole or part of any land in the village which he was cultivating at the time of his ejectment, and place him in possession of such land and determine the rent which shall be payable by him to the proprietor as such tenant.

Explanation.—Any such person as is described in this sub-section who, having been ejected subsequently to the first day of January 1893, applied to a Revenue-officer for reinstatement within two years of his ejectment, shall be deemed to have made the application required by this sub-section.

(4) The incidents of the tenure of a thíkádár (including a farmer or gaontia) who has been declared to be protected under this section shall be as follows :—

(*a*) the tenure shall be heritable, but not transferable by sale, gift, mortgage or dower; it shall not be saleable in execution of any decree nor shall any decree be passed for the sale thereof; and, save in so far as any arrangements to the contrary are in force at the time of the declaration, it shall not be partitioned and shall devolve on one member only of the thíkádár's family;

(*b*) when on the death of a thíkádár there are two or more heirs bearing the same relationship to him, the eldest of such heirs shall succeed :

[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(*Part III.—Of Survey and Settlement. Chapter V.— Of the Assessment of Land-revenue.*)

Provided, first, that of such heirs an heir who was joint with the thíkádár shall have preference over an heir who was separate : and

Provided, secondly, that the eldest of two or more such heirs shall be at liberty at the time of succession to resign his right in favour of another heir bearing the same degree of relationship to the deceased thíkádár as he himself bears ;

(*c*) a protected thíkádár, whether holding under a written lease or a verbal agreement, shall be entitled to a renewal of his lease on its expiry, on his agreeing to farm his village at a fair and equitable thíká-jama ;

(*d*) in the event of any dispute arising between the proprietor and the protected thíkádár as to what is a fair and equitable thíká-jama, the matter shall be referred to the Deputy Commissioner, whose decision shall, subject to revision by the Commissioner and [1] [State Government], be final ;

(*e*) not more than one enhancement of the thíká-jama or, where it is so specially provided in the terms of the settlement of the village, no enhancement of the thíkà-jama shall be imposed on a protected thíkàdàr during the currency of a settlement ;

(*f*) all miscellaneous dues and cesses, unless specially authorized by the [1] [State Government], shall be included in the thíkà-jama payable under the lease ; and

(*g*) a protected thikádár shall comply with the rules made under section 124-A for the management of málguzári forests.

(5) In any proceedings before a Court for the ejectment of a thíkádár, gaontia or farmer, if it appears that the thíkádár, gaontia or farmer has filed an application before a Revenue-officer to obtain a declaration that he is protected, or if he files such an application before the Court, the Court shall stay proceedings until the application has been disposed of in accordance with the provisions of this Act, and shall, if the application is filed before itself, forward such application to the Deputy Commissioner or Settlement-officer for disposal.

(6) If any protected thíkádár, gaontia or farmer is shown to have, since the commencement of the Central Provinces Land-revenue Act, 1898, contravened, or to be contravening, the conditions of his tenure as contained in clause (*a*) or clause (*g*) of sub-section (4), or to have grossly mismanaged the village held by him in lease, the Settlement-officer or Deputy Commissioner may, with the previous sanction of the [1] [State Government], declare such thíkádár, gaontia or

Central Act XII of 1898.

[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

farmer to have forfeited the protection previously conferred on him under this section, and such thíkádár, farmer or gaontia shall from the date of such declaration cease to be protected.

(7) Nothing in this section shall affect the liability of any protected thíkàdár, farmer or gaontia to ejectment in execution of a decree for ejectment passed, in accordance with any law for the time being in force and not inconsistent with this Act, on the ground—

(*a*) that he has failed to pay the thíká-jama legally payable by him :

(*b*) that he has diverted the culturable land of the village to non-agricultural purposes, or is chargeable with some act or omission which renders him liable to be ejected.]

Settlement-officer to apportion assessment over lands held in severalty.

66. When the whole of the land comprised in a mahál is held in severalty, the Settlement-officer shall apportion to the several holdings the amount with which such land is assessed under a settlement or sub-settlement.

When only part of the land comprised in a mahál is held in severalty the Settlement-officer shall apportion such amount to the part held in common and the part held in severalty, and shall further apportion to the several holdings the amount to which they are liable under the former apportionment.

Settlement-officer to redistribute land according to custom.

67. When by established custom the land held by each proprietor in any mahál is subject to periodical redistribution, the Settlement-officer may, in his discretion, on the application of the proprietors, make such redistribution according to such custom.

[1] *Procedure in Raiyatwari Settlements.*

Assessment of raiyatwari villages.

[1][**67-A.** (1) The [2][State Government] may make rules for the Assessment of land held by raiyats direct from the [3][Government].

(2) Such rules may provide for the subdivision of occupied and unoccupied land into survey-numbers, on each of which a separate assessment shall be made :

Provided that no such survey-number shall include land occupied in separate interest by more raiyats than one at the time of its formation.

(3) When the lands of a village have been divided into survey-numbers, on each of which a separate assessment has

[1] This heading and sections 67-A to 67-I were inserted by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), section 18.

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] The word "Crown" was substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

been made, the village may be declared by the [1] [State Government], to be a regularly settled raiyatwári village.

(4) The assessment made on a survey-number may be either fixed or progressive or in the form of rates chargeable according to the results of each year or harvest.]

Assessment to whom to be offered.

[2] [67-B. (1) The assessment of each survey-number in a regularly settled raiyatwári village shall in the first place be offered to the raiyat (if any) holding the survey-number.

(2) If such raiyat refuses to accept the assessment, he may be ejected as if for non-payment of revenue, and the assessment may be offered—

(*a*) to any co-partner of the ejected raiyat, and, if he also refuses,

(*b*) to any other person.]

Assessment of unoccupied survey-numbers.

[2] [67-C. A survey-number formed from unoccupied land in a regularly settled raiyatwàri village may be allotted by the Settlement-officer at the time of settlement or by the Deputy Commissioner during the currency of the term of settlement to any person who accepts the assessment made upon it.]

Responsibility of raiyats for assessment.

[2] [67-D. (1) A raiyat who has accepted the assessment of a survey-number in a regularly settled raiyatwári village, and his representatives and assigns, shall be responsible for the payment of the land-revenue assessed on such survey-number during the term of settlement, unless he or they has or have relinquished the survey number by presenting at the tahsil office a written notice of relinquishment.

(2) Such notice of relinquishment shall take effect from the first day of April next following the date of the presentation thereof.]

Right of raiyat inheritable, but not transferable.

[2] [67-E. (1) The right of a Government raiyat in a survey-number held by him shall devolve as if it were land, but is not transferable except to a person who, if he survived the raiyat, would inherit his right, or to a co-sharer in such right, or, with the permission of the Deputy Commissioner, by a lease to a sub-tenant cultivating under the raiyat.

(2) The right of a raiyat in a survey-number held by him shall not be sold in execution of a decree.

(3) A raiyat is not entitled to claim partition of a survey-number, but the Deputy Commissioner may, with the previous sanction of the [1] [State Government], partition a survey-number and apportion the assessment between the holders thereof.

[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These sections were inserted by s. 18 of the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889).

(Part III.—Of Survey and Settlement. Chapter V.—Of the Assessment of Land-revenue.)

(4) Nothing in this section shall affect the rights of raiyats on whom proprietary rights in survey-numbers held by them have been conferred by special orders.]

[1] [**67-F.** The [2] [State Government] may make rules—

Power to make rules for survey-numbers.

(*a*) prescribing the procedure under which unoccupied survey-numbers may be allotted to raiyats during the currency of the term of a settlement ;

(*b*) providing for the appointment in the case of survey-numbers held by two or more raiyats in co-partnership, of one of such raiyats to be primarily responsible for the payment of the land-revenue assessed on such survey-numbers ;

(*c*) providing, in cases in which the assessment is in the form of rates chargeable according to the results of each year or harvest, for the manner and time in and at which the amount chargeable is to be notified to the raiyat.]

Central Act XVI of 1889

[1] [**67-G.** The provisions of sections 55 and 56 shall, so far as they can be made applicable, apply to raiyatwàri settlements made under this Act.]

Provisions of sections 55 and 56 applicable to raiyatwári settlements.

[1] [**67-H.** The land-revenue payable at the commencement of the Central Provinces Land-revenue Act, 1889, by raiyats holding survey-numbers in villages declared to be regularly settled raiyatwári villages, shall be deemed to have been assessed under the provisions of this Act.]

Land-revenue now payable by raiyats to be deemed to be fixed under this Act.

[1] [**67-I.** Raiyats who hold Government land not included in a regularly settled raiyatwári village and who are not tenants within the meaning of this Act, shall be liable for the payment of such land-revenue as may be assessed in accordance with rules made under this Act on the land held by them :

Raiyats holding Government land not included in raiyatwári villages.

Provided that such a raiyat shall not be compelled to pay revenue for land which he has vacated before the first day of April next before the commencement of the agricultural year on account of which the claim for such revenue arises.]

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[1] These sections were inserted by s. 18 of the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889).

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(Part III.—Of Survey and Settlement. Chapter VI.—Of certain Investigations by the Settlement-officer and the Preparation of the Record-of-Rights.)

CHAPTER VI.

OF CERTAIN INVESTIGATIONS BY THE SETTLEMENT-OFFICER AND THE PREPARATION OF THE RECORD-OF-RIGHTS.

Settlement-officer to ascertain proprietors.

68. The settlement-officer shall ascertain the persons who are in possession as proprietors of the land comprised in each mahál.

Determination and record of sir-land.

[1][**69.** (1) The Settlement-officer shall ascertain and determine the extent of all the land which is held as sir-land as defined in section 4A, and which has not lost its character as sir-land under the provisions of section 45 of the Central Provinces Tenancy Act, 1898, and shall record the same as sir-land. Central Act XII 1898.

(2) The Settlement-officer shall also record as sir-land—

(*a*) land which is at the time of his inquiry cultivated by the proprietor or one of the proprietors thereof and has been continuously so cultivated for a period of not less than twelve consecutive years ; and

(*b*) land which is at the time of his inquiry cultivated by the proprietor or one of the proprietors thereof, and having been broken up from waste-land by such proprietor or one of such proprietors, has since been continuously cultivated by him for a period of not less than six years :

Provided that no land shall be recorded as sir-land under this sub-section if the total area of sir-land within the mahál already exceeds, or will by such record be made to exceed, one-quarter of the total occupied area of the mahál :

Provided, further, that the Settlement-officer may, with the previous sanction of the Commissioner, exempt any mahàl or part thereof from this limitation in respect of land falling under clause (*b*) of this sub-section.

(3) When a part of such land as is referred to in sub-section (2) is excluded from the record of sir-land under the proviso to that sub-section, the proprietor shall have the right to choose the particular fields which are to be excluded.

(4) An order or entry of the Settlement-officer recording or omitting or refusing to record any land as sir-land under sub-section (1) shall be final unless and until it is reversed or modified by the decree of a Civil Court in a suit instituted under section 83 at any time after the record is attested by the Settlement-officer, or his order regarding the entry is passed, and within one year after the settlement comes into effect ; and an order or entry recording, or omitting or refusing

[1] The present s. 69 was substituted by s. 4 of the Central Provinces Land-revenue Act, 1898 (Central Act XII of 1898), for the s. 69 substituted for the original section by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 19.

(Part III.—Of Survey and Settlement. Chapter VI.—Of certain Investigations by the Settlement-officer and the Preparation of the Record-of-Rights.)

to record, any land as sir-land under sub-section (2) shall be final unless and until it is reversed or modified on appeal or revision in accordance with the provisions of sections 22 to 26.

(5) The Settlement-officer shall, at the request of any proprietor, furnish him, free of cost, with a list of all the land which has been recorded as sir-land under this section, and is situated within the mahál or patti owned wholly or partly by such proprietor.

(6) All land not falling within the purview of section 4A, sub-section (1), shall be presumed, until the contrary is proved, not to be sír-land.

Explanation.—For the purposes of this section the word "proprietor" shall be deemed to include an assignee of proprietary rights, but not a málik-mákbuzá.]

Settlement-officer to decide disputes among share-holders regarding management of mahál;

70. The Settlement-officer shall ascertain the customs or rules by which the proprietors in each mahál are mutually bound as to the granting of pattás, the ejectment of tenants, the realization and distribution of rents and other profits, the payment of land-revenue, village-expenses and other charges, and generally as to the control and management of the mahál; and shall decide all disputes and record all agreements regarding the matters mentioned in this section.

to determine through what lambardárs revenue shall be paid;

71. The Settlement-officer shall determine through which of the lambardárs or sub-lambardárs the amount of revenue payable by each proprietor, sub-proprietor, or málik-mákbuzá shall be paid.

to ascertain status and rents of tenants.

72. The Settlement-officer shall ascertain, and record for each mahál, the status of all tenants occupying land therein, the lands respectively held by them, the conditions on which they respectively hold such lands, and the rents (if any) payable by them respectively.

Inquiry into claims to hold free from revenue as against the Government.

73. The Settlement-officer shall investigate all claims against the [1] [Government] to hold land free from revenue or at less than a full assessment, or to receive the whole or part of the land-revenue assessed on land which is not free from revenue.

[1] The word "Crown" was substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

(Part III.—Of Survey and Settlement. Chapter VI.—Of certain Investigations by the Settlement-officer and the Preparation of the Record-of-Rights.)

Power of State Government to make rules.

The [1] [State Government] may [2] [. . .] make rules determining the principles by which the Settlement-officer shall be guided in the disposal of claims coming under this section.

Inquiry as to claims to hold free from revenue as against málguzárs.

74. When any land not being land which any person is entitled to hold free from revenue as against the [3] [Government] is held by a proprietor, whether himself a málguzár or not, who claims to hold it wholly or partially free from revenue as against the other málguzárs of the mahál, the Settlement-officer shall decide whether the claimant is entitled to be exempted from paying the whole or any part of the revenue which would otherwise be payable in respect of such land, and, if he decides that the claimant is so entitled, shall also determine the conditions under which, and the term for which the claimant is entitled to such exemption :

Provided that no decision under this section shall exempt any land from the payment of revenue, when the mahál in which such land is comprised is sold for arrears of revenue.

State Government may make rules for disposal of such cases.

The [1] [State Government] may make rules for the guidance of Settlement-officers in dealing with cases under this section.

Time from which orders under sections 73 and 74 take effect.

75. When the Settlement-officer decides, under section 73 or section 74, that land which has been held free from revenue, or at less than a full assessment, is liable to pay revenue, or to pay the same at enhanced rates, such decision shall take effect from the first day of the agricultural year next ensuing ; unless the [1][State Government] directs that the amount payable in respect of such land on account of the revenue accruing due within any one or more of the last preceding twelve years shall be realized.

Settlement-officer to decide what village-cesses are leviable ;

76. The Settlement-officer shall determine and record the village-cesses, if any, which are leviable in accordance with village custom, and the persons by and from whom, and the rates at which, they are leviable ; and such cesses shall, if sanctioned by the [1] [State Government], be leviable accordingly.

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[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "with the previous sanction of the Governor-General in Council" were omitted by the Adaptation Order of 1937.

[3] The word "Crown" was substituted for the words "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

(Part III.—Of Survey and Settlement. Chapter VI.—Of certain Investigations by the Settlement-officer and the Preparation of the Record-of-Rights.)

to determine certain disputes.

77. The Settlement-officer may determine disputes regarding any of the following matters (namely) :—

(*a*) the right of any lambardár, mukaddam, [1][. . .] village-watchman or other village-servant to any customary dues or other remuneration, and his liability to render any customary service in return for such dues or remuneration ;

(*b*) the rights of persons resident in the village, or holding lands comprised in the mahál, in or to the common land of the mahál and its produce and the village-site ;

(*c*) any customs relating to irrigation or to rights-of-way and other easements ;

(*d*) any other rights and customs which the [2][State Government] directs to be recorded in the administration-paper.

Procedure in cases under sections 68, 69, 70, 72 and 77, clauses (*b*), (*c*) and (*d*).

78. If a dispute arises regarding any matter mentioned or referred to in sections 68, 69, [3][sub-section (1)], 70, 72 and 77, clauses (*b*), (*c*) and (*d*), the Settlement-officer shall decide it summarily after making such inquiry as he thinks fit, and shall not be bound to hear any party to such dispute or to receive any evidence tendered by any such party ; but in the case of every such dispute he shall record a proceeding stating the nature of such dispute, his decision thereon, the grounds of such decision and such other particulars as he thinks fit.

Record-of-rights.

79. The Settlement-officer shall prepare for every mahál, or, if he thinks fit, for any group of neighbouring maháls, a record-of-rights, and shall include in it—

(*a*) the results of the inquiries made undert his Chapter in respect of such mahál or group ; and

(*b*) any other matters which the [2][State Government] may, by rules in this behalf, direct to be entered in such paper.

State Government may make rules regarding record-of-rights.

80. The [2][State Government] may make rules prescribing the language in which the record-of-rights shall be drawn up, the form of the papers of which it shall consist, and the manner in which such papers shall be signed and attested by the Settlement-officer and the parties interested in the matters to which they refer.

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[1] The word "patwari" was omitted by the Repealing and Amending (Rates and Cesses) Act, 1907 (Central Act IV of 1907).

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This word and figure in square brackets were inserted by section 5 of the Central Provinces Land-revenue Act, 1898 (Central Act XII of 1898).

(Part III.—Of Survey and Settlement. Chapter VI.—Of certain Investigations by the Settlement-officer and the Preparation of the Record-of-rights.)

Record-of-rights to be made over to Deputy Commissioner.

81. When the Settlement-officer has completed a record-of-rights in manner hereinbefore prescribed, he shall, subject to any order issued by the [1] [State Government] in this behalf, make it over to the Deputy Commissioner for custody.

Effect of entries in record-of-rights.

82. When the record-of-rights is duly made and attested, all entries therein shall be presumed to be correct until the contrary is shown.

Suits to contest certain settlement decisions or entries.

83. Any person deeming himself aggrieved by any decision under section 78, or by any decision of the Chief Settlement-officer in appeal therefrom, or by any entry made in the record-of-rights as to any matter referred to in that section, may institute a suit in the Civil Court to have such decision set aside or such entry cancelled or amended :

Provided as follows :—

when any suit under this section is instituted for the cancellation or amendment of an entry, the [1] [State Government], if it so desire and all persons interested in the entry, shall be made parties to the suit :

no persons by whom the record-of-rights was signed, and no persons claiming through or under them, shall, without the previous sanction of the [1] [State Government], institute any suit with a view to modify or set aside any entry relating to any matter mentioned in section 70 or section 77, clause (*b*), (*c*) or (*d*).

Revisions of record-of-rights by State Government.

84. After an assessment has been confirmed [2][. . .] the [1] [State Government] shall not exercise, in respect of any entry of the descriptions referred to in section 83 duly made in a record-of-rights prepared in connexion with such assessment and duly attested, the power of revision conferred by sections 25 and 31, unless it is proved that such entry was made inadvertently.

Proceedings regarding lands, the property of Government.

85. In respect of lands declared to be the property of Government, the Settlement-officer shall, instead of proceeding as hereinbefore provided, conduct such operations, and prepare such record, as the [1] [State Government] may direct.

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[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "by the Governor-General in Council" were omitted by the Adaptation Order of 1937.

(Part III.—Of Survey and Settlement. Chapter VII.—Of Settlements made before this Act comes into force.)

CHAPTER VII.

OF SETTLEMENTS MADE BEFORE THIS ACT COMES INTO FORCE.

Former settlements deemed to have been made under this Act.

86. Settlements made before this Act comes into force shall be deemed, so far as may be, to have been made hereunder; and the provisions of this Act in regard to proceedings taken and records prepared by Settlement-officers in the making of settlements hereunder shall apply in like manner to proceedings taken and records prepared before this Act comes into force.

Effect of awards of proprietary rights at such settlements.

87. When a Settlement-officer or Settlement Court has, at any settlement made before this Act comes into force, made an award of proprietary rights in any land, all claims, which after consideration by such officer or Court may have been expressly decided by him or it to be invalid, or inferior to the claims of the persons in whose favour the award was made, shall be barred both as against [1][the Government] and as against the persons last-mentioned; and no suit shall lie for the enforcement of such claims in any Civil Court.

The award at any such settlement of proprietary rights in land to a widow shall be deemed to confer on her those rights only which, in accordance with the personal law to which she is subject, she would enjoy in land inherited by her from her husband.

When suits for proprietary rights will lie in Civil Courts.

88. Any person whose claim to proprietary rights in any land was not expressly decided by such officer or Court may sue in a Civil Court to establish such claim; and, if he can prove that, when proprietary rights in such land were awarded by such officer or Court to other persons, he was entitled to interests therein of the same nature as those upon consideration of which the award was made, the Civil Court may declare him entitled to a proprietary right of such nature and extent in the land as it may deem just.

State Government may allot waste-land to málik-mákbuzás entitled thereto.

89. When at any settlement made before this Act comes into force málik-mákbuzás have been declared entitled to a portion of the waste-lands comprised in any mahàl, the [2][State Government] may, notwithstanding anything contained in the record of such settlement, prescribe the extent of such portion and the mode in which the same shall be assigned to them; and may determine the nature and extent of their interests therein and the conditions on which they may hold it.

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[1] The words "the Crown" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

PART IV.

Of Revenue—Administration.

CHAPTER VIII.

OF THE COLLECTION OF LAND-REVENUE.

Power of State Government to regulate payment of land-revenue.

90. Notwithstanding anything contained in the record-of-rights of any village, the [1] [State Government] may fix the number and amount of the instalments, and the times, places and manner, at and in which land-revenue, whether payable direct to the Government or not, shall be paid.

Until the [1] [State Government] otherwise directs all such payments shall be made on the dates, in the instalments, in the manner and at the places on, in and at which they are payable when this Act comes into force.

"Arrear" "Defaulters."

91. When any sum payable under a settlement or sub-settlement [2] [. . .] is not paid within the time at which it is payable under section 90, such sum shall be deemed to be an arrear, and all the persons with whom such settlement or sub-settlement [2] [. . .] was made, their representatives and assigns, shall thereupon become jointly and severally liable for it, and shall be deemed to be defaulters within the meaning of this Act.

[3] [*Explanation.*—The term "assigns" in this section includes a mortgagee in possession and a thíkadár.]

Avoidance of attachments and executions which forestall land-revenue.

[4] [**91-A.** Without the previous consent of the Deputy Commissioner or of such officer, not being below the rank of Táhsildár, as he may appoint in this behalf, the rents and profits of a mahál or málik-mákbuzá holding and the produce of a survey-number shall not be liable to be attached or taken in execution of a decree or order of any Court until the land-revenue chargeable against such rents, profits or produce, and any arrear due in respect of the mahál, holding or survey-number, have been paid.]

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[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "or otherwise under an assessment made in accordance with this Act," and the words "or such assessment" which were inserted in s. 91 by s. 20 of the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), are omitted, as s. 20 has since been repealed by s. 13 of the Central Provinces Land-revenue Act, 1898 (Central Act XII of 1898).

[3] This *Explanation* was inserted by s. 6 of the Central Provinces Land-revenue Act, 1898 (Central Act XII of 1898).

[4] Section 91-A was inserted by s. 7 *ibid.*

(Part IV.—Of Revenue—Administration. Chapter VIII.—Of the Collection of Land-revenue.)

Realization of Revenue from Màlguzàrs.

Tàhsildar's statement of account to be conclusive evidence of arrear.

92. A statement of account, authenticated by the signature of the Tàhsildàr, shall, for the purposes of this Chapter, be conclusive evidence of the existence of any arrear payable direct to the Government, of its amount, and of the persons who, in respect thereof, are defaulters.

Notice of demand.

93. The Deputy Commissioner or any officer empowered by him in this behalf may, if he thinks fit, before any of the processes hereinafter referred to are issued for the recovery of such an arrear, cause a notice of demand to be served on any of the defaulters.

Processes for recovery of arrears.

94. An arrear payable directly to Government may be recovered by any one or more of the following processes :—

(*a*) by arresting the defaulter and imprisoning him in the civil jail ;

(*b*) by attaching and selling his movable property ;

(*c*) by attaching the mahàl in respect of which the arrear has accrued or the share or land of any màlguzàr who has not paid the portion of the revenue which, as between him and the other màlguzàrs, is payable by him, and taking the same mahàl, share or land under direct management ;

(*d*) by transferring the share or land of any màlguzàr who has not paid such portion to any màlguzàr who has paid the same, or, if every such màlguzàr declines to accept such share or land, to any person having a mortgage or charge upon the same, and who consents to accept it ;

(*e*) by annulling the settlement of the mahàl in respect of which the arrear has accrued, and taking such mahàl under direct management or farming the same ;

(*f*) by selling such mahàl, or the share or land of any màlguzàr who has not paid the portion of the revenue aforesaid ;

(*g*) by selling immovable property belonging to the defaulter other than the land in respect of which the arrear has accrued ;

[1](*h*) in the case of a raiyat who has accepted the assessment of a survey-number, by ejecting him from his holding :

Provided as follows :—

(1) the process mentioned in clause (*a*) shall not be issued against any female, minor, lunatic or idiot ;

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[1] Clause (*h*) was inserted by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 21.

(2) the processes mentioned in clauses (*d*), (*e*), (*f*) and (*g*) shall not be enforced without the previous sanction of the [1][State Government];

(3) no land shall be sold, and the settlement of no land shall be annulled, on account of an arrear accruing in respect of land whilst it is under attachment or under charge of the Superintendent of Government Wards, or held under direct management, or let in farm in accordance with any of the provisions of this Act.

The processes specified in clauses (*a*), (*b*) and (*g*) may be enforced either in the district in which the default has been made, or in any other district.

Arrest and imprisonment for recovery of arrear.

95. The process mentioned in section 94, clause (*a*), may be executed by issuing a warrant directing the officer named therein, if the defaulter fails to pay the arrear by a date to be fixed in the warrant, to bring him to the tahsil.

If, when the defaulter arrives at the tahsil, the arrear is still unpaid, the Tahsildàr may order him to be taken before the Deputy Commissioner, or may keep him under personal restraint at the tahsil for a period not exceeding ten days, unless within such period the arrear is paid, and may then, if the arrear is still unpaid, cause him to be taken before the Deputy Commissioner.

Imprisonment of defaulter in civil jail.

96. If the arrear is not paid when the defaulter arrives before the Deputy Commissioner, the Deputy Commissioner may issue an order to the officer-in-charge of the civil jail of the district, directing him to confine the defaulter in such jail, for such period, not exceeding three months from the date of the order, as the Deputy Commissioner may think fit unless within such period the arrear is paid.

Procedure in sales of movable property.

97. Attachments and sales of movable property made under this Chapter shall be conducted as nearly as may be according to the law for the time being in force for the attachment and sale of movable property under the decree of a Civil Court.

Management of mahál, share or land attached under section 94 (*c*).

98. After causing any attachment to be made under section 94, clause (*c*), the Deputy Commissioner shall issue a proclamation declaring the attachment to be in force, and shall take the attached mahàl, share or land under his own management, or place it under the management of any agent whom he may appoint for the purpose.

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1 The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(Part IV.—Of Revenue—Administration. Chapter VIII.—Of the Collection of Land-revenue.)

Effect of attachment.

99. During the continuance of an attachment under section 98, the defaulter shall be excluded from possession of the land attached, and the Deputy Commissioner or the agent appointed by him shall have all their rights to manage the land and to realize the rents and profits arising therefrom, and shall be bound by all their liabilities as màlguzàrs or proprietors to any subordinate proprietors or tenants of such land.

Profits of land how applied.

100. The surplus profits of such land, after defraying the cost of attachment and management, shall be applied, first, to the payment of any revenue becoming due in respect of such land during the attachment, and next, to discharging the arrear for the recovery of which the attachment was made.

Attachment when to cease.

101. The attachment shall continue until the arrear is paid or realized from the profits of the land attached, or the Deputy Commissioner reinstates the defaulters in possession :

Provided that no attachment shall continue beyond five years from the first day of the agricultural year next following its commencement.

Transfer under section 94 (*d*).

102. When it is proposed to execute the process mentioned in section 94, clause (*d*), the persons to whom the share or land in respect of which the arrear is due is to be transferred shall be required to pay such arrear, or to secure its payment to the satisfaction of the Deputy Commissioner.

No such transfer shall be made for a term exceeding fifteen years from the first day of the agricultural year next after the date on which it is sanctioned by the [1][State Government].

Joint and several liability not affected by transfer.

No proceedings taken under this section shall affect the joint and several liability of the màlguzàrs of the mahàl for arrears accruing in respect of such mahàl subsequently to the transfer of the share or land, except that, as regards all such arrears, the transferee shall stand in the place of the màlguzàr whose share or land is transferred.

Procedure after receipt of sanction to annulment of settlement.

103. When the [1][State Government] sanctions the annulment of the settlement of any mahàl, the Deputy Commissioner shall proclaim such annulment, and may then exclude the defaulters from the possession of the mahàl, and either manage the mahàl or any portion thereof himself or through an agent, or let the mahàl or any portion thereof in farm for such term and on such conditions as the [1][State Government] directs :

[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Provided that no management or farm under this section shall continue for a longer period than fifteen years from the first day of the agricultural year next after the proclamation of annulment of settlement.

After the date of such proclamation no liabilities shall accrue under the settlement so annulled; but such annulment shall not affect anything done or any liability incurred under the settlement before such date.

Case of a portion of a mahàl being managed or farmed.

104. When a portion only of the mahàl is managed or let in farm under section 103, the rest of such mahàl shall be separately re-settled with the proprietors thereof for the remainder of the term of settlement.

Settlement on expiry of management or farm.

105. As soon as the management or farm of any mahàl or portion thereof has come to an end, the Deputy Commissioner shall offer to the persons entitled under section 49 to an offer of assessment a new assessment of the land, on such conditions as the [1][State Government] may direct, for the remainder of the term of the settlement of the mahàl; and, if such offer is refused, may, with the previous sanction of the [1][State Government], let such mahàl or portion in farm for the remainder of the term of settlement to some other person, or manage it himself or through an agent for such period.

Effect of annulment of settlement.

106. No leases, liens or other incumbrances created by the defaulters, or by any person through or under whom they claim, of or upon any land managed or let in farm under this Act, shall, during such management or farm, be binding upon the Deputy Commissioner or Settlement-officer, his agent or lessee.

Saving of rights in sir-land.

107. No defaulter shall be deprived of the possession of his sir-land in the execution of any of the processes mentioned in section 94, clauses (*c*), (*d*) and (*e*); but every such defaulter shall, while such process is being enforced, be entitled to retain possession of, and liable to pay rent for such land as if he were an absolute occupancy-tenant, at such rent as may be fixed by the Deputy Commissioner.

Nature of estate taken by purchaser of land sold for arrears due thereon.

108. Unless the [1][State Government] in sanctioning the sale otherwise directs, a purchaser of any land sold for arrears of revenue due in respect thereof acquires the full proprietorship or superior or inferior proprietorship of it, as the case may be, free of all leases, liens and other incumbrances; and all grants or contracts previously made by any person other than the purchaser in respect of such land shall become void as against such purchaser.

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[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(Part IV.—Of Revenue—Administration. Chapter VIII.—Of the Collection of Land-revenue.)

Nothing in this section shall—

(*a*) affect the rights of any proprietor, superior or inferior to the defaulters, or of any màlik-màkbuzà or occupancy-tenant, who does not derive his rights as such proprietor, màlik-màkbuzà or tenant from express contract with such defaulters, or any person through whom they claim ; or

(*b*) apply to lands held under leases at fair rents for the erection thereon of dwelling-houses, places of worship or manufactories, or for working mines, minerals, coals and quarries, or for laying out and maintaining gardens and burial-grounds, or for constructing tanks and canals, so long as the lands continue to be used for the purposes specified in such leases respectively ; or

(*c*) deprive any defaulter whose property is sold of the rights in respect to his sir-land conferred by any law for the time being in force.

The [1][State Government] may, from time to time, determine what rents shall be deemed to be fair rents within the meaning of this section.

Rules for sale of immovable property.

109. When immovable property is sold under this Act, the rules prescribed in sections 287, 288, 293 and 306 to 316, both inclusive, of the Code of Civil Procedure [2] shall be followed, except in the following particulars (that is to say) :—

Central Act XIV of 1882.

(*a*) the defaulter may pay the arrear in respect of which the land is to be sold at any time before the day fixed for the sale, and on such payment the sale shall be stayed ;

(*b*) the proclamation directed by the said section 287 shall, when the sale is under clause (*f*), section 94 of this Act, declare that, subject to the provisions of section 108, the full proprietorship, or superior or inferior proprietorship, as the case may be, is to be sold free from all leases, liens and other incumbrances, and the certificate mentioned in section 316 of the said Code shall contain a similar statement ;

(*c*) the last two clauses of the said section 287 shall not apply ;

(*d*) an appeal from any order under section 312 of the said Code for confirming or setting aside the sale shall lie to the Commissioner of the Division, and an appeal from the Commissioner's order on such appeal shall lie to the [1][State Government] ;

(*e*) the Deputy Commissioner may, from time to time, postpone any sale which he has proclaimed, reporting such postponement to the Commissioner of the Division ;

[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was subetituted for "Provincial" by the Adaptation Order of 1950.

[2] *See* now the Code of Civil Procedure, 1908 (Central Act V of 1908).

(*f*) section 309 of the said Code shall be read as if after the words "for such payment" the words "and every sale of such property made after a postponement" were added;

(*g*) section 313 of the said Code shall not apply to sales under section 94, clause (*f*) of this Act;

(*h*) section 316 of the said Code shall be read as if the words "The Deputy Commissioner shall place the purchaser in possession of the lands which he has purchased" were added thereto.

Pre-emption at sales.

110. In the course of a sale under section 94, clause (*f*), if the property is knocked down to a stranger, the following persons may claim to take it at the sum last bid in the following order:—

(*a*) any màlguzàr who has paid the revenue which as between him and the other màlguzàrs is payable by him;

(*b*) if the superior proprietorship is sold, the inferior proprietor;

(*c*) if the inferior proprietorship is sold, the superior proprietor:

Provided that such claim is made before the officer conducting the sale closes the sitting at which the sale is held, and that the claimant undertakes to fulfil all the conditions of the sale binding on the purchaser.

Application of proceeds of sale of immovable property.

111. The proceeds of every sale in execution of any process mentioned in section 94 shall be applied first, in satisfaction of the arrear on account of which the sale was held and of the expenses of such sale; secondly, to the payment of any other arrear due to Government by the defaulter; and the surplus, if any, shall then be payable to him, or, where there are more defaulters than one to such defaulters according to their respective shares in the property sold.

Costs recoverable as part of arrear.

112. The costs of serving a notice of demand under section 93 and of enforcing any process mentioned in section 94 shall be recoverable as part of the arrear in respect of which the notice was served and the process was issued.

Matters as to which State Government may make rules.

113. The [1][State Government] may make rules—

(*a*) for the guidance of Revenue-officers in issuing notices of demand under section 93 and executing the processes mentioned in section 94;

(*b*) defining the classes of officers by whom the processes mentioned in section 94, clauses (*a*) and (*b*), may be enforced;

[1] The words "Provincial Government" were substituted for the words 'Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(*c*) prescribing the agency by which any of the processes issued under section 94 shall be executed.

Remedies open to person denying that sum demanded as an arrear is due.

114. Notwithstanding anything contained in section 92, when proceedings are taken under this Act for the recovery of an arrear, the person against whom such proceedings are taken may, if he denies that the arrear or any part thereof is due, pay the same under protest made at the time of payment and duly signed by him or by his agent, and institute a suit in the Civil Court for the recovery of the amount which he denies to be due.

Realization of Revenue by Málguzárs.

Limitation of right to set off, etc., in suit for arrears.

115. In a suit for the recovery of an arrear of revenue not being revenue payable directly to Government, and in a suit brought by a lambardár to recover the amount of any revenue payable to Government through him, the defendant shall not, except with the permission of the Court,—

(*a*) set off against the plaintiff's demand any sum of money recoverable by him from the plaintiff; or

(*b*) claim credit for any payment purporting to have been made on account when such payment was made before the date on which the amount thereof became due.

Recovery of arrear through Deputy Commissioner instead of by suit.

116. Any lambardár or sub-lambardár entitled to recover an arrear, of any málguzár to whom such an arrear is due under a sub-settlement, may, before instituting a suit for the recovery thereof, apply to the Deputy Commissioner to recover such arrear on his behalf as if it were an arrear of revenue payable directly to Government.

The Deputy Commissioner may, if he thinks fit, comply with such application, but shall, before compliance therewith, give to the persons, who would be defendants if a suit were instituted for the recovery of such arrear, opportunity to show cause against the order which he proposes to make.

The Deputy Commissioner shall not be made a defendant to any suit instituted under section 114 in respect of an arrear as to which an order has been made under this section.

No person on whose account the Deputy Commissioner proceeds under this section to recover an arrear shall thereby be relieved of his responsibility for such arrear.

Central Act XV of 1877.

Saving of right of málguzár to demand revenue of land assessed to revenue and held free.

117. Nothing in the Indian Limitation Act, 1877, [1] and no agreement made after this Act comes into force, shall bar the right of the málguzárs of any mahál assessed with land-revenue to demand revenue in respect of any land which, having been taken into account in such assessment, has been held by any person without payment of revenue.

[1] *See* now the Indian Limitation Act, 1908 (Central Act IX of 1908).

The [1][State Government] may, in [2][its] discretion, exempt any case from the operation of this section.

Limitation in suits for revenue.

118. No suit for the recovery of revenue payable under a settlement or sub-settlement shall be instituted after three years reckoned from the date on which such revenue becomes payable.

In other respects the limitation of such suits shall be governed by the Indian Limitation Act, 1877.[3] Central Act XV of 1877.

Interest on Arrears.

Interest on arrears.

119. Interest shall not be charged on an arrear of revenue unless the [1][State Government], by general or special order, so directs :

Provided that the Court may award interest at such rate as it thinks fit on sums payable under a sub-settlement.

CHAPTER IX.

Of Revenue and Village Records.

Correction of record-of-rights.

120. Any entry in the record-of-rights may, after such record has been made over to the Deputy Commissioner, be corrected by the Deputy Commissioner on the application of any person interested, or of his own motion. Such correction may be made on one or more of the following grounds, and on no others :—

(*a*) that all persons interested in such entry wish to have it corrected ; or

(*b*) that by a decree in a suit brought under section 83 it has been declared to be erroneous ; or

(*c*) that, being founded on a decree or order of a Civil Court or on the order of a Revenue or Settlement-officer, it is not in accordance with such decree or order ; or

(*d*) that, being founded on such decree or order, the order or decision has subsequently been modified on appeal or review, or has been revised by the [1][State Government].

Revision of record in accordance with provision therein contained.

121. The Deputy Commissioner may revise a record-of-rights when such revision is provided for in such record.

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[1]The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2]This word was substituted for the word "his" by the Adaptation Order of 1937.

[3]*See* now the Indian Limitation Act, 1908 (Central Act IX of 1908).

(Part IV.—Of Revenue—Administration. Chapter IX.—Of Revenue and Village Records.)

Powers of Deputy Commissioner as to correction of entry or revision of record.

122. When the Deputy Commissioner takes proceedings for the correction of any entry in the record-of-rights or for the revision of such record-of-rights, he shall exercise, for the purpose of such correction or revision, all the powers which the Chief Settlement-officer might have exercised if the proceedings had been taken whilst the settlement was in progress.

Power to direct that rule or custom entered in record-of-rights shall be enforced by Government.

123. The [1][State Government] may, [2][. . . .] by notification in the official Gazette, direct that any specified rule, custom or condition duly entered in the record-of-rights of any specified village shall be enforced by the Government.

Punishment for violation of such rule or custom.

If any of the persons with whom a settlement or sub-settlement has been made violate or neglect any rule, custom or condition with respect to which the [1][State Government] has made a direction under this section, the Deputy Commissioner may, if no penalty is provided by any law for the time being in force for such violation or neglect, recover from such person a penalty not exceeding two hundred rupees.

Suit to set aside proceedings under section 123.

124. Any person against whom proceedings have been taken under section 123 may institute a suit against [3][the State Government] to set aside such proceedings on the ground that no rule, custom or condition was, in fact, violated or neglected. If the Court finds that no rule, custom or condition has been violated or neglected, it may by its order annul such proceedings and direct that any penalty paid by the plaintiff be refunded; and may also award to him such costs as he has necessarily incurred in the proceedings, and such further sum as compensation as it thinks fit.

Powers to control management of forests.

[4][**124-A.** (1) When under any record-of-rights or sanad or any agreement with [5][the Government] the proprietor or the superior or inferior proprietor of any forest-land included within, or forming, a mahàl is bound to manage such forest-land in accordance with rules or instructions prescribed by any Government officer, the [1][State Government] may make rules regarding the control and management of such forest-land.

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[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "in his discretion" were omitted by the Adaptation Order of 1937.

[3] The words "Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] This section was inserted by section 22 of the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889).

[5] The words "the Crown" were substituted for the words "the Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

(2) If the proprietor, or the superior or inferior proprietor, as the case may be, fails to observe the rules so made, the Deputy Commissioner may issue a notice calling on him to show cause, within a reasonable time to be specified in the notice why he should not be excluded from the possession of the forest-land.

(3) If no sufficient cause is shown, the Deputy Commissioner may, with the previous sanction of the [1] [State Government], exclude such proprietor from the possession of the forest-land, and assume the direct management thereof for a term to be fixed by the [1] [State Government].

(4) The costs of management shall be borne by the proprietor, or by the superior and inferior proprietors in such proportions as the [1] [State Government] may direct with reference to the amount of their respective interests in the forest or mahàl, and shall be realizable as land-revenue.

(5) The profits of such forest-land while under direct management shall be paid to the proprietor, or to the superior and inferior proprietors in the proportions in which the costs of management are borne by them.

(6) No leases, liens, incumbrances or contracts created or made by the proprietor or by any person through or under whom he claims, of, upon or with respect to the forest-land held under direct management, shall be binding upon the Deputy Commissioner during such management.

(7) The Deputy Commissioner may confiscate any timber or other forest-produce cut or removed in contravention of the rules made under sub-section (1).

(8) On the expiration of the period fixed for the direct management, the forest-land shall be restored to the proprietor, or superior or inferor proprietor, as the case may be.]

Powers of State Government as to registration of changes after preparation of record-of-rights.

125. The [1] [State Government] may—

(*a*) direct that the mukaddam of each village shall, for the purpose of showing the changes occurring therein [2] [from time to time], prepare or, where there is a patwari, cause to be prepared, and furnish, annually for such village, papers in such form, at such time, containing such particulars, and attested in such manner as the [1] [State Government] may, from time to time, prescribe ;

(*b*) lay down the procedure to be followed in order to ascertain that a change has occurred in the village, and the nature of such change.

[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "subsequently to the preparation of the record-of-rights" by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 23.

(Part IV.—Of Revenue—Administration. Chapter IX.—Of Revenue and Village Records.)

All changes referred to in this section shall be recorded in such registers as the [1][State Government] appoints, and not in the record-of-rights, and the [1][State Government] may direct that, before any specified changes are recorded, the order of a specified Revenue-officer shall be obtained in this behalf.

Possession of proprietary rights to be notified.

126. All persons lawfully entering into possession of proprietary rights and interests in any land shall, within a reasonable time, give notice of such entry to the Tahsíldar of the tahsíl in which such land is situated.

If any question arises whether any right or interest is a proprietary right or interest within the meaning of this section, the decision thereof by the [1][State Government] shall be final.

Notice to be given by guardian in case of minority or idiotcy.

If the person so entering is a minor, lunatic or idiot, the guardian or other person who has charge of his property shall give the notice required by this section.

Fine for neglect to give notice of possession.

127. Any person neglecting to give the notice required by section 126 shall be liable, at the discretion of the Deputy Commissioner or Assistant Commissioner, to fine which may extend to fifty rupees for each day during which such neglect continues.

Obligation to aid in preparation of village-papers.

128. All persons being in possession of proprietary rights in land shall, on being so required by the Deputy Commissioner, prepare, or cause to be prepared, such papers, and furnish such information, as may be required for the preparation of the village-papers prescribed under section 125.

Fees for recording changes; from whom leviable.

129. The [1][State Government] may direct that fees shall be leviable when changes are recorded under the last clause of section 125, and may fix the amount of such fees.

All fees so leviable shall be levied from the person in whose favour the change is made.

Annual inquiry regarding land held free from revenue.

130. The Deputy Commissioner shall in each year make inquiry regarding all cases in which land has been granted by [2][the Government] conditionally or for a time, free, wholly, or in part from the payment of revenue.

Procedure on breach of conditions of grant.

If it appears to the Deputy Commissioner that the conditions of any grant have been broken by the grantee he shall report the case through the Commissioner of the division for the orders of the [1][State Government], who may direct that the land be assessed, or may pass such other order as [3][it] thinks fit.

[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "the Crown" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[3] This word was substituted for the word "he" by the Adaptation Order of 1937.

Procedure on expiry of term of grant.

If it appears to the Deputy Commissioner that the term of any such grant has expired, or (when the grant is for a life or lives) if the person last entitled to hold the land comprised in the grant, free from revenue, or at less than full revenue-rates, has died, he shall assess the same, and shall report his proceedings through the Commissioner of the division for the sanction of the [1] [State Government].

Inspection of revenue-records.

131. All records kept under this Act shall be open to public inspection at such times, and on such conditions as to fees or otherwise, as the [1] [State Government] from time to time directs.

CHAPTER X.

OF CERTAIN ADDITIONAL POWERS AND FUNCTIONS OF REVENUE OFFICERS.

Purposes for which when settlement is not in progress Deputy Commissioner shall exercise Settlement-officers' powers.

132. The Deputy Commissioner shall, when a settlement is not in progress, exercise the powers conferred by this Act on Settlement-officers for the following purposes :—

(*a*) causing boundary-marks to be erected or repaired, and recovering the cost of such erection and repair ;

(*b*) assessing land revenue on lands which are liable to assessment, but have not been assessed ;

(*c*) declaring any local area to be a mahāl ;

(*d*) settling lands from which the proprietors were excluded at settlement and to which they have been or are about to be re-admitted ;

(*e*) settling mahāls in respect of which an application has been made under the third proviso to section 56 ;

(*f*) dealing with claims to hold land wholly or partially free from revenue as against the mālguzārs ;

(*g*) assessing lands gained by alluvion ;

(*h*) ascertaining and recording village-cesses which are levied when this Act comes into force, but have not been recorded at the settlement ;

[2] (*i*) inquiring into the claims of thíkadārs, gaontias or farmers, declaring them to be protected for the purposes of section 65-A, and, generally, carrying out the provisions of that section ; and

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[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] Clauses (*i*) and (*j*) were substituted by s. 8 of the Central Provinces Land-revenue Act, 1898 (Central Act XII of 1898), for the cl. (i) which was added by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 24.

(Part IV.—Of Revenue—Administration. Chapter X.—Of certain Additional Powers and Functions of Revenue Officers.)

[1] (*j*) declaring, either on his own motion or on a reference made by a Court or Revenue-officer, land to be sír-land under the provisions of section 69, sub-section (2), clause (*b*), and the provisos thereto.

Purposes for which officers may be invested with settlement officers' powers.

133. The [2][State Government] may, during the currency of a settlement, invest any officer with, [3][any] of the powers which are by this Act conferred on a Settlement-officer; but not so as to enable him to enhance the amount of an assessment in force under section 56.

Cognizance of, and penalty for, offence of injuring boundary-marks.

134. Any person wilfully erasing, removing or damaging a boundary-mark may be ordered by the Deputy Commissioner or by a Tahsíldár or Nàib Tahsíldàr empowered by the [2][State Government] in this behalf to pay to the officer making the order, in addition to any fine to which such person would be liable under section 434 of the Indian Penal Code, such sum, not exceeding fifty rupees, as may, in the opinion of such officer, be necessary to defray the expense of restoring the same, and of rewarding the person (if any) who gave information of such erasure, removal or damage.

Procedure when person injuring cannot be found.

135. Whenever the person erasing, removing or damaging such mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been ordered to pay, the mark shall be re-erected or repaired at the cost of the proprietors, mortgagees or farmers [4][or, in the case of regularly settled raiyatwári villages, of the raiyáts] of such one or more of the adjoining lands as the Deputy Commissioner thinks fit.

136. [*Partition of a mahál into two mahâls.*] *Rep., Central Act XVI of* 1889, *s.* 26.

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[1] Clauses (*i*) and (*j*) were substituted by s. 8 of the Central Provinces Land-revenue Act, 1898 (Central Act XII of 1898), for the cl. (*i*) which was added by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), *s.* 24.

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This word was substituted for the words and figures "the powers conferred on a Settlement-officer by sections 40, 41 and 42; or, with the sanction of the Governor-General in Council, with any other" by the Adaptation Order of 1937.

[4] These words were inserted by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 25.

CHAPTER X-A.[1]

PARTITION.

Perfect and Imperfect partition.

Perfect and imperfect partition.

136. (1) Partition is either perfect or imperfect.

(2) Perfect partition means the division of a mahál into two or more maháls.

(3) Imperfect partition means the division of a mahál into two or more pattis jointly responsible for the revenue assessed on the whole mahál.

Persons entitled to imperfect partition.

136-A. Any recorded co-sharer of a mahál and any person in whose favour a decree has been passed awarding to him a proprietary interest in a mahál, whether such interest consists of a fractional share in the whole mahál or a part of the mahál or of specific lands, is entitled to claim at any time imperfect partition of his share.

Persons entitled to perfect partition.

136-B. Any recorded co-sharer in a mahál, not being a mahàl—

(*a*) in the Sambalpur District, or

(*b*) held by superior and inferior proprietors and which the [2][State Government] by rule declares to be incapable of perfect partition,

whose share, saving such part of it as may be impartible, has been completely separated from the rest of the mahál and is held by him in severalty, is entitled to claim perfect partition of his share at the time of settlement of such mahál.

Jurisdiction of Civil Court barred as to partition.

136-C. No Civil Court shall entertain any suit or application for the imperfect or perfect partition of a mahál.

Imperfect partition.

Applications for imperfect partition to be made to Deputy Commissioner.

136-D. (1) Applications for imperfect partition shall be made in writing to the Deputy Commissioner of the district in which the mahál is situate.

(2) If the mahál is situate in two or more districts, the application may be made in any one of those districts, and the partition shall be made by such one of the Deputy Commissioners of those districts as the [2][State Government] may direct.

Procedure on receipt of application.

136-E. (1) The Deputy Commissioner on receiving an application for imperfect partition shall, if the application be

[1] Chapter X-A was inserted by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 26.

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

in order, and not open to objection on the face of it, publish a notification of the same at his office and at some conspicuous place on the mahál to which the application relates, and shall serve a notice on all such of the recorded co-sharers in the mahál as have not joined in the application, requiring any co-sharer in possession who may object to the partition to appear before him to state his objection either in person or by a duly authorized agent on a day to be specified in the notice, not being less than thirty or more than sixty days from the date on which such notice was issued.

(2) Where from any cause notice cannot be personally served on any co-sharer, the notification shall be deemed sufficient notice under this section.

Objection to partition.

136-F. If on or before the day specified any objection is made to the partition by any co-sharer in possession, and the Deputy Commissioner on a consideration of such objection is of opinion that there is good and sufficient reason why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

Objection raising question of title.

136-G. (1) If the objection raises any question of title or of proprietary right which has not been already determined by a Court of competent jurisdiction, the Deputy Commissioner may either decline to grant the application until the question in dispute has been determined by a competent Court, or may proceed to inquire into the merits of the objection.

(2) In the latter case the Deputy Commissioner, after making the necessary inquiry and taking such evidence as may be adduced, shall record a judgment declaring the nature and extent of the interests of the party or parties applying for the partition, and of any other party or parties who may be affected thereby.

Central Act XIV of 1882.

(3) The procedure to be observed by the Deputy Commissioner in trying such cases shall be that laid down in the [1] Code of Civil Procedure for the trial of original suits, and he may, with the consent of the parties, refer any question arising in such case to arbitration, and the provisions of Chapter XXXVII of the same Code [1] relative to arbitration shall apply to such references.

Effect of Deputy Commissioner's orders in such cases and appeal therefrom.

136-H. (1) All decrees and orders passed by the Deputy Commissioner under the last foregoing section deciding the rights of parties shall be held to be decrees and orders of a Court of Civil Judicature, and shall be open to appeal as if passed by the Court of the Deputy Commissioner acting as a

Central Act VI of 1885.

[1] *See* now the Code of Civil Procedure, 1908 (Central Act V of 1908).

Court of Civil Judicature of first instance under the Central Provinces Civil Courts Act, 1885.[1]

(2) Upon such appeal being made, the Court of appeal may issue a precept to the Deputy Commissioner directing him to stay the partition pending the decision of the appeal.

Second appeal in such cases.

136-I. From any decree or order passed under the last foregoing section by a Commissioner sitting as a Court of appeal, a second appeal shall, where a second appeal is by law allowed, lie to the [2] [High Court] under the law for the time being in force relating to second appeals to that Court.

Option to parties to make partition themselves or appoint arbitrators.

136-J. When it has been decided to make a partition under this Chapter, the Deputy Commissioner may give the parties the option of making the partition themselves, or of appointing arbitrators for the purpose, or he shall make the partition himself.

Proceeding to be recorded by the Deputy Commissioner before making partition.

136-K. Before commencing to make the partition, the Deputy Commissioner shall record a proceeding specifying the lands held in severalty, if any, and the land held in common, and laying down the principles to be followed in making the partition, with particulars of the method on which such principles are to be applied.

Each patti to be made as compact as possible.

136-L. (1) The pattí of each sharer shall be made as compact as possible :

Provided that so far as may be compatible with fairness of partition, lands held in severalty shall be left in the possession of the parties holding the same.

(2) No partition shall be disallowed solely on the ground of incompactness.

Rule when house of one sharer is included in the pattí of another.

136-M. (1) If in making the partition it be necessary to include in any pattí the land occupied by a dwelling-house or other building in the possession of another co-sharer, such other co-sharer shall be allowed to retain it, with any buildings thereon, on condition of his paying a reasonable ground-rent for it to the sharer into whose pattí it may fall.

(2) The limits of such land and the rent to be paid for it shall be fixed by the Deputy Commissioner.

Sir-land belonging to one sharer not to be included without his consent in the patti of another sharer.

136-N. (1) No sir-land belonging to any co-sharer shall be included in the pattí assigned on partition to another co-sharer, unless with the consent of the co-sharer who cultivates it or unless the partition cannot otherwise be conveniently carried cut.

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[1] Central Act XVI of 1885 has been repealed by Central Provinces Courts Act, 1904 (Central Act II of 1904).

[2] These words were substituted for the words "Court of the Judicial Commissioner" by the Adaptation Order of 1937.

(2) If such land be so included and after partition such co-sharer continues to cultivate it, he shall be recorded as an occupancy-tenant in respect of such land, and his rent shall be fixed by order of the Deputy Commissioner.

Rule as to tanks, wells and other irrigation works.

136-O. (1) Tanks, wells, water-courses and embankments shall be treated as attached to the land for the benefit of which they were originally made.

(2) Where, from the extent, situation or construction of such works, it is found necessary that they should continue the joint property of the proprietors of two or more of the pattīs into which the mahál may be divided, the Deputy Commissioner shall determine the extent to which the proprietors of each pattī may make use of the said works, and the proportion of the charges for repairs of such works to be borne by such proprietors respectively, and the manner in which the profits, if any, derived from such works shall be divided.

Rule regarding places of worship and burial-grounds.

136-P. (1) Places of worship and burial-grounds held in common previous to the partition of a mahàl shall continue to be so held unless the parties otherwise agree among themselves.

(2) In such cases they shall state in writing the agreement into which they have entered, and such writing shall be filed with the record.

Deputy Commissioner may dismiss case for non-payment of costs or may quash proceedings.

136-Q. (1) If the costs to be paid by the applicant for partition are not paid within a time to be fixed by the Deputy Commissioner, the case may be dismissed.

(2) If at any stage of the proceedings there appears to be any reason for stopping the partition, the Deputy Commissioner may stay the partition and order the proceedings to be quashed, recording his reasons for so doing.

Commissioner's sanction to partition necessary.

136-R. On completion of the partition, the Deputy Commissioner shall submit the proceedings to the Commissioner, who may either uphold the partition proposed or modify it or quash the proceedings, and a partition shall not take effect until it has been sanctioned by him.

When partition sanctioned notification to be published.

136-S. (1) On a partition, being sanctioned by the Commissioner, the Deputy Commissioner shall publish a notification of the fact at his office and at some conspicuous place in the village or villages of the mahàl of which partitional pattīs formed part.

(2) The partition shall take effect from the first day of the agricultural year next after the date of such notification.

(Part IV.—Of Revenue—Administration. Chapter X-A.—Partition.)

Perfect Partition.

Applications for perfect partition to be made to Settlement-officer.

136-T. (1) Applications for perfect partition shall be made, in such form as may be prescribed by the [1] [State Government], to the Settlement-officer charged with the settlement of the area in which the mahàl is situate.

(2) Such applications must show that the share which it is desired to have formed into a separate mahàl is already held in severalty saving such portion of it as may be impartible. An application failing to show this shall be rejected.

Settlement-officer may declare shares in mahàls to be separate mahàls.

136-U. (1) Subject to any rules which may be made by the [1][State Government], the Settlement-officer, if he is satisfied of the truth of the matters stated in the application, may, if he thinks fit, declare the share to be a separate mahàl, and may assess it separately to land-revenue :

Provided that no share shall be declared to be a separate mahál till the proprietors of other shares in the mahál have been given an opportunity of objecting to its perfect partition.

(2) Except with the sanction of the Commissioner, an incompact estate shall not be declared to be a separate mahàl.

Supplemental Provisions.

Power to make rules regarding partition proceedings.

136-V. The [1] [State Government] may make rules regarding—

(*a*) the form in which applications for partitions shall be made ;

(*b*) the procedure to be followed in referring matters to arbitrators and in giving effect to the award of arbitrators ;

(*c*) the costs of partition and the mode in which costs are to be apportioned ; and

(*d*) generally, for carrying out the provisions of this Chapter.

Partition may be effected by distribution of mahàls.

[2] **136-W.** Notwithstanding anything contained in this Chapter, when an estate, in respect of the whole or part of which imperfect partition is sought, consists of two or more mahàls, or shares in two or more mahàls, the partition may be effected by the distribution of such mahàls or shares between the co-sharers, without imperfect partition of the mahàls or shares, or partly by such distribution and partly by imperfect

[1] The words " Provincial Government " were substituted for the words " Chief Commissioner " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] The present s. 136 W was inserted by s. 9 of the Central Provinces Land-revenue Act, 1898 (Central Act XII of 1898), in place of the former section, which was inserted as part of Ch. X-A by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), but which was repealed by the Repealing and Amending Act, 1891 (Central Act XII of 1891).

partition, as the Deputy Commissioner may, of his own motion, or on the application of the parties, deem fit. In making the partition referred to in this section, the Deputy Commissioner shall be guided by the provisions of this Chapter so far as they are compatible with the distribution as aforesaid.

CHAPTER XI.

VILLAGE-OFFICERS AND PATWARIS.

Power to make rules as to officers.

137. The [1] [State Government] may make rules regulating the appointment, remuneration, suspension and removal of lambardárs, sub-lambardàrs, [2] [mukaddams and patéls] :

Provided that, except with the previous sanction of the [3] [State Government], proprietors, other than málik-mákbuzás, shall not be liable to pay, on account of the aggregate remuneration of lambardárs or sub-lambardárs and mukaddams, a sum exceeding five per cent on the land revenue which is assessed on their land, or which, when their land is free from revenue, would in the judgment of the Deputy Commissioner, be assessed on their land if it were subject to assessment.

In framing rules for the appointment under this section of lambardárs and sub-lambardárs for any mahál, the [1] [State Government] shall have regard among other matters to local custom and hereditary claims, and to entries on the subject in the record-of-rights of such mahál.

[4] [The lambardár of the village shall ordinarily also be the mukaddam. When a lambardár who does not reside in the village is appointed mukaddam thereof, he shall, subject to the approval of the Deputy Commissioner, appoint an agent to perform the duties of a mukaddam. If there are resident co-sharers in the village the non-resident lambardár shall

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[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "and mukaddams" by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 27 (1).

[3] The words "Provincial Government" were substituted for the words "Governor-General in Council" by the Adaptation Order of 1937 and the word "State" was substituted for Provincial by the Adaptation Order of 1950.

[4] These paragraphs were substituted for the original last paragraph by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 27 (2). That paragraph was as follows :—

"In every village in which there are resident màlguzàrs, one of such màlguzàrs shall be the mukaddam."

appoint one of them to be his agent unless the Deputy Commissioner for special reasons allows him to appoint some other person. If a mukaddam fails within a reasonable time to appoint an agent with the approval of the Deputy Commissioner, the Deputy Commissioner shall himself appoint an agent and shall fix the amount of his remuneration, which shall be paid to him by the mukaddam.

An agent appointed under this section shall be deemed to have the powers conferred on, and to be responsible for the performance of the duties prescribed with regard to mukaddams by this Act and the rules made hereunder.

Any fine imposed on such agent for a breach of the provisions of this Act or the rules made hereunder may be recovered from the mukaddam whose agent he is by the Deputy Commissioner.

In a raiyatwári village the patél shall ordinarily be the mukaddam.]

Duties of lambardárs.

138. It shall be the duty of every lambardár and sub-lambardár—

(*a*) to collect and pay into the Government treasury so much of the land-revenue as may under section 71 be payable through him either solely or jointly with other lambardárs or sub-lambardárs ;

(*b*) to collect and pay to the mukaddam, or into the Government treasury, as the Deputy Commissioner may direct, all sums of money payable through him, either solely or jointly with other lambardárs or sub-lambardárs by the proprietors whom he represents, on account of the remuneration of the mukaddam [1] * or village-watchmen, or on account of any expenses which the mukaddam is authorized to recover from the lambardárs or sub-lambardárs of his village ;

(*c*) to assist the mukaddam in obtaining all particulars which he is bound to enter in the annual village-papers, or to report under this Act.

Lambardárs may recover fees and other charges from proprietors.

139. Together with the land-revenue, lambardárs and sub-lambardárs may recover from the proprietors whom they respectively represent—

(*a*) any remuneration to which they are entitled as such, and

(*b*) the sum which, under section 138, they are bound to pay to mukaddams :

Provided that no such recovery shall be made from málik-mákbuzás paying a percentage which includes remuneration to mukaddams and lambardárs.

[1] The word "patwaris" was repealed by the Repealing and Amending (Rates and Cesses) Act, 1907 (Central Act IV of 1907).

(Part IV.—Of Revenue—Administration. Chapter XI.—Village-officers and Patwaris.)

Deputy Commissioner may alter channel through which málik-mákbuzá pays revenue.

140. On the application of any málik-mákbuzá or other like holder of land, or of the lambardár or sub-lambardár through whom such málik-mákbuzá or other holder of land pays the revenue assessed on his holding, the Deputy Commissioner may, for sufficient cause shown, order that such revenue be paid through any other lambardár or sub-lambardár, or that it be paid into the Government treasury.

Effect of order for payment of revenue direct to Government.

When the Deputy Commissioner orders such payment to be made into the Government treasury, such portion of the percentage fixed under section 64 as the Deputy Commissioner subject to the control of the [1] [State Government], may determine, shall be so paid, and the málik-mákbuzá or other person shall pay the rest to the mukaddam on account of their fees and other village-expenses.

Duties of mukaddams.

141. It shall be the duty of every mukaddam—

(*a*) to control and superintend the [2] * * * * village-watchmen; to report their deaths or absence from duty; to maintain them in the possession of any lands appertaining to their office; to recover and pay to them any cash allowances to which they may be entitled; and to take such steps as may be necessary to compel them to perform their duties;

(*b*) to furnish reports regarding the state of his village, at such places and times as the Deputy Commissioner fixes in this behalf;

(*c*) to report and, if possible, to prevent encroachments on the public paths and roadways in his village;

(*d*) to preserve such stations and marks erected in his village by Government surveyors as may be made over to his care;

(*e*) subject to any rules issued by the [1][State Government] to keep his village in good sanitary condition;

(*f*) to report violations of any rules which the [1] [State Government] may make for the preservation of underwood, forests and trees growing on the village-lands, and for securing to persons entitled to cut wood and enjoy other privileges in the waste-lands of the village the rights to which they are entitled;

(*g*) to collect, or aid in the collection of, all payments due to Government in his village;

(*h*) to report all births and deaths taking place in his village.

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[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "village-patwari and" were repealed by the Repealing and Amending (Rates and Cesses) Act, 1907 (Central Act IV of 1907).

(Part IV.—Of Revenue—Administration. Chapter XI.—Village-officers and Patwaris.)

The [1] [State Government] may make rules—

(1) adding to the list of duties which a mukaddam is required to perform under this section ; and

(2) regulating the liability of persons residing in any village for charges necessarily incurred by mukaddams in the performance of the duties specified in clause (*e*) in respect of such village, and for apportioning such charges among such persons ; and

(3) determining the officers to whom reports under this section shall be made.

Liabilities imposed by law on landholders to attach to mukaddams.

142. When, by any enactment for the time being in force, any public duties are imposed on, or public liabilities are declared to attach to, landholders, their managers and agents and the like, such duties shall be deemed to be imposed on, and such liabilities shall be held to attach to, mukaddams appointed under this Act :

Provided that nothing herein contained shall discharge landholders, their managers or agents or the like from any liabilities imposed upon them by law.

Power of mukaddams to recover certain expenses incurred.

143. Every mukaddam may recover from the lambardárs or sub-lambardárs of the village to which he is appointed his own remuneration, together with any expenses necessarily incurred in the performance of his duties.

Duties of patél

[2] [**143-A.** It shall be the duty of every patél, in addition to his duties as mukaddam,—

(*a*) to collect and pay into the Government treasury the land-revenue assessed on the survey-numbers or holdings of his village ;

(*b*) in respect of his village to report the abandonment of survey-numbers or holdings, the encroachment of raiyats on waste-land not included in their survey-numbers or holdings, and the non-payment of revenue or any facts which indicate that default will be made in the payment thereof ;

(*c*) to assist the [3] * * village-watchman of his village in the recovery of dues to which [4] (he is) entitled ;

(*d*) to prevent the unauthorized cutting of wood in Government forests included in or adjoining his village and to report any such unauthorized cutting in such forests.]

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[1] The words " Provincial Government " were substituted for the words " Chief Commissioner " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] Section 143-A was inserted by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 28.

[3] The words " patwàri and " were omitted by the Repealing and Amending (Rates and Cesses) Act, 1907 (Central Act IV of 1907).

[4] These words were substituted for the words " they are " by *ibid.*

(Part IV.—Of Revenue—Administration. Chapter XI.—Village-officers and Patwaris.)

State Government may make rules as to patwàris.

144. The [1] [State Government] may make rules—

[2] [(*a*) providing for the appointment of patwáris in tracts where they have not been already appointed ;]

[3] [(*b*) regulating the manner in which patwáris are to be selected ; prescribing the conditions under which they may be appointed ; and fixing the limits of their circles and the nature, mode and amount of their remuneration ;

[3] (*c*) prescribing the conditions under which substitutes may be appointed for persons having hereditary claims to the office of patwári, when such persons are unable to act];

[4] (*d*) prescribing the fines which may be imposed on patwáris and their substitutes for neglect of their duty, and stating the circumstances under which they may be suspended or removed.

[5] * * * * * *

145. [*Rules by Chief Commissioner for guidance of Deputy Commissioner.*] *Rep. Central Act XVI of* 1889, *section* 30.

State Government may define duties of patwáris.

146. The [1] [State Government] may make rules prescribing the duties of patwáris—

(*a*) towards the Government ; and may in such rules determine the registers, returns or other papers which they shall keep or furnish, the forms and language in which such registers and returns are to be prepared, the mode of their preparation and attestation, and the dates on which they are to be furnished ;

(*b*) towards the members of the village community.

[6] * * * * * * *

Patwáris' papers to be public documents.

All records and papers which patwàris are required to prepare or keep by any rule made by the [1] [State Government] under this section shall be deemed to be public documents within the meaning of the Indian Evidence Act, 1872, and to be the property of Government.

Central Act I of 1872.

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[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] Clause (*a*) was inserted by s. 29 (1) of the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889).

[3] These clauses were originally cls. (*a*) and (*b*) respectively. They were re-lettered as they now stand by s. 29 (2), of *ibid.*

[4] This clause was originally cl. (*c*). It was re-lettered as it now stands by s. 29 (2) of *ibid.*

[5] The proviso to s. 144 was repealed by *ibid.*

[6] The words "and may in such rules fix the remuneration, if any, other than the fixed emoluments of their office, which the patwáris may demand in respect of the performance of such duties" were repealed by *ibid*, s. 31.

(Part IV.—Of Revenue—Administration. Chapter XI.—Village-officers and Patwàris.

146-A. [*Power to fix amount to be paid by proprietors, tenants and raiyats for patwàris.*] *Rep. by the Repealing and Amending (Rates and Cesses) Act*, 1907 (*Central Act IV of* 1907).

Patwáris to produce papers for inspection, and to allow copies to be made.

147. Patwáris shall produce at all reasonable times for the inspection of all persons interested therein, all records and papers which they are so required to prepare or keep, and shall allow such persons to make copies of such records and papers.

Power to make rules regarding village-watchmen.

[1] **147-A.** The [2](State Government) may make rules regarding village-watchmen, and may in the rules—

(*a*) provide for and regulate their appointment, [3](punishment), suspension or removal, prescribing the number of village-watchmen who may hold office at one time in a single village, and providing for the appointment of a single village-watchman for two or more villages where such villages would be unable to support separate village-watchmen ;

(*b*) determine the character and amount of the remuneration which village-watchmen shall be entitled to demand from the members of the village community ;

(*c*) define the duties and the mode of supervision of village-watchmen.]

Existing officers confirmed.

148. All existing lambardárs, sub-lambardárs, mukaddams, [4][patwàris and village-watchmen] shall, unless the [2][State Government] in any specified case otherwise directs, be deemed to have been appointed under this Act.

Lambardárs' and other officers' dues recoverable as arrears.

149. Any sums which lambardárs, sub-lambardárs, mukaddams [5][and village watchmen] are entitled to recover or demand under this Chapter may, if the Deputy Commissioner so directs, be recovered in the same manner as an arrear of revenue payable directly to the Government.

Holders of sír-land in Sambalpur to provide for remuneration of mukaddams.

150. In each village of the District of Sambalpúr all persons holding sír-land, other than mukaddams, are bound to provide for the due remuneration of the mukaddam of the village ; and the [2][State Government] may make rules for the enforcement of this obligation.

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[1] Section 147-A was inserted by The Central Provinces Land Revenue Act, 1889 (Central Act XVI of 1889), s. 33.

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] The word "punishment" was inserted by s. 10 of the Central Provinces Land-revenue Act, 1898 (Central Act XII of 1898).

[4] The words in square brackets were substituted for the words "and patwáris" by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 34.

[5] These words were substituted for the words "and patwáris" by the Central Provincial Land-revenue Act, 1889 (Central Act XVI of 1889), s. 35.

PART V.

CHAPTER XII.

MISCELLANEOUS.

Right to mines, quarries and fisheries.

151. Unless it is otherwise expressly provided in the records of a settlement or by the terms of a grant made [1][by the Government], the right to all mines, minerals, coals and quarries, and to all fisheries in navigable rivers * * * *[2] shall be deemed to belong [3][to the Government], and the [4][State Government] shall have all powers necessary for the proper enjoyment of such rights:

Provided that, whenever in the exercise by the [4][State Government] of the rights herein referred to over any land the rights of any persons are infringed by the occupation or disturbance of the surface of such land, the [4][State Government] shall pay to such persons compensation for such infringement, and the amount of such compensation shall be determined as nearly as may be in accordance with the provisions of the [5]Land Acquisition Act, 1870.

Central Act X of 1870.

Exclusive jurisdiction of revenue authorities.

152. Except as otherwise hereinbefore provided,—

(*a*) no Civil Court shall entertain any suit instituted, or application made to obtain a decision or order on any matter which [6][* * *] the [7][State Government] or a Revenue or a Settlement-officer is, by this Act, empowered to determine or dispose of; and in particular

Matters excepted from jurisdiction of Civil Courts.

(*b*) no Civil Court shall exercise jurisdiction over any of the following matters:—

(1) any matters provided for in sections 40, 41, 42 and 89 as to waste lands:

(2) the claim of any person to have an assessment offered to, or sub-settlement made with, him:

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[1] The words "by the Crown" were substituted for the words "by the Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[2] The words "and the right to extract sap from all palmyra and coconut trees" were repealed by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 36.

[3] The words "to the Crown" were substituted for the words "to Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[4] The words "Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[5] *See* now the Land Acquisition Act, 1894 (Central Act I of 1894).

[6] The words "the Governor-General in Council" were omitted by the Adaptation Order of 1937.

[7] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(3) the amount of revenue or rate to be assessed on any mahàl, share or portion of a mahàl under this or any other Act for the time being in force :

(4) questions as to the validity of any engagement with Government for the payment of land-revenue, or of any agreement entered into by superior or inferior proprietors in a settlement or sub-settlement :

(5) claims connected with or arising out of any process enforced on account of refusal to accept the assessment offered in a settlement or sub-settlement by the Settlement-officer or Deputy Commissioner :

(6) the amount of the allowance or rent fixed under section 61 or 62 :

(7) the re-distribution according to established custom, by a Settlement-officer, of land comprised in a mahàl :

(8) the formation of the record-of-rights, the preparation, signing or attestation of any of the documents contained therein, or the notification of settlement :

(9) any matters provided for or referred to in section 73, 74 or 130 as to lands held or claimed to be held free from revenue, except rights arising under any contract between the [1] [Government] and grantees of land :

(10) claims connected with, or arising out of, the collection of revenue, or any process enforced on account of an arrear of revenue, or on account of any sum which is under this or any other Act realizable as revenue :

(11) claims to set aside, on any ground other than fraud, sales for arrears of revenue :

(12) corrections of entries or revisions of records under sections 120, 121 and 122 :

(13)[2] question connected with or arising out of the exclusion of a proprietor from forest-land, and the direct management of such land under section 124-A :

(13-*a*)[2] the distribution of the land or allotment of the revenue of a mahàl by partition ; or the determination of the rent to be paid by a co-sharer for land held by him after the partition in the mahàl or the patti of another co-sharer :

(14) claims to the office of patwàri, lambardàr, sub-lambardàr, [mukaddam, patél or village watchman,] [3] or in respect of any injury caused by exclusion therefrom, or to compel the performance of the duties thereof :

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[1] The word " Crown " was substituted for the words " Government of India " by the Adaptation Order of 1937 and the word " Government " was substituted for " Crown " by the Adaptation Order of 1950.

[2] Clauses (13) and (13-*a*) were substituted for the original cl. (13) by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 37.

[3] These words were substituted for the words " or mukaddam " by *ibid*, s. 38.

(15) claims to compel the performance of any duties imposed by this Act on any Revenue or Settlement-officer.

In all the above cases jurisdiction shall rest with the Revenue-authorities only.

For what village-cesses suit lies.

153. No suit shall lie in any Civil or Revenue Court for the recovery of any village cess which has not been sanctioned by the [1][State Government] and also either recorded at a settlement or under section 132, clause (*h*).

Limitation of claims for compensation in case of waste land demarcated as property of Government.

154. Whenever, at any settlement made before this Act comes into force, waste lands have been demarcated as the property of Government, no claim of any person to, or in respect of, such lands shall be entertained by any Civil Court after the expiration of three years from the date of such demarcation.

Restriction of Revenue and Settlement-officers trading and holding land.

155. No Revenue or Settlement-officer, and no person employed in any Revenue or Settlement-office, shall, except with the express permission of the [1][State Government],—

(*a*) engage in trade, or be in any way concerned, directly or indirectly, in any commercial transaction, or in the purchase or hiring of land, in the district to which he is appointed, or in which he is employed;

(*b*) purchase or bid for either in person or by agent in his own name or in that of another or jointly or in shares with others, any property which may be sold by order of any Revenue-authority in such district.

The [1][State Government] may delegate to Commissioners of Divisions or to Deputy Commissioners the power of granting the permission mentioned in this section in the case of any specified class of officers.

Central Act X of 1866.

Nothing in this section shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1866[2].

When mahàl managed or farmed, or upon proclamation under section 98 or 103, rent payable to Deputy Commissioner. Payment to proprietor in anticipation of due date.

156. When any mahàl is managed or let in farm under section 57 or 58, or when either of the proclamations mentioned in sections 98 and 103 has been made, all sums due to the proprietor in respect of the mahàl, share or land mentioned in any of the said sections, shall be payable only to the Deputy Commissioner or Settlement-officer, his agent or lessee and no payment made to such proprietor in anticipation of the usual period for such payment shall, without the sanction of the Deputy Commissioner or Settlement-officer, be credited to the

[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] *See* now the Indian Companies Act, 1913 (Central Act VII of 1913), which came into force on 1st April 1914.

person making the same in account with the Deputy Commissioner or Settlement-officer, his agent or lessee.

Recovery of balances due by farmers.

157. When any land has been let in farm under the provisions of this Act, any revenue due from the farmer in respect of such land may be recovered from him or his surety as an arrear of revenue payable directly to Government.

Recovery of miscellaneous revenue.

[1] [**157-A.** Rents, fees and royalties due to the Government for the use or occupation of land or water (whether the property of the Government or not) or on account of any products thereof, and all moneys falling due to the Government under any grant, lease or contract which provides that they shall be so recoverable, may be recovered under this Act in the same manner as an arrear of land-revenue.]

Recovery of revenue due when Act comes into force; and of money payable under Act.

158. All land-revenue due when this Act comes into force and all penalties or other moneys payable to, or recoverable by, an officer of Government under this Act, shall be recovered from the persons from whom they are due and from the sureties (if any) of such persons as if such land-revenue, penalties or moneys were an arrear of revenue payable directly to Government due under this Act by such persons and their sureties.

Past proceedings for collection of revenue legalized.

159. All proceedings taken before this Act comes into force for the collection of the land-revenue or the realization of arrears thereof shall be deemed to have been taken in accordance with law.

State Government may empower persons by name, or confer powers on classes.

160. In conferring powers under this Act, the [2] [State Government] may empower persons by name or classes of officials generally by their official titles.

State Government may vary or cancel orders.

161. The [2] [State Government] may vary or cancel any order conferring powers under this Act.

Penalty for failure to perform duty or abuse of authority by mukaddam or agent.

[3] [**161-A.** Any mukaddam or agent of a mukaddam who without reasonable excuse fails to perform any duty imposed on him by this Act or the rules made thereunder, or abuses any of the powers conferred upon him by this Act or any such

[1] Section 157-A was inserted by s. 11 of the Central Provinces Land-revenue Act, 1898 (Central Act XII of 1898).

[2] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] Sections 161-A and 161-B were inserted by the Central Provinces Land-revenue Act, 1889 (Central Act XVI of 1889), s. 39.

rule, shall be [1] [liable, on the order of a Deputy Commissioner, to a fine] which may extend to fifty rupees, and, in the case of a continuing failure, to a fine of ten rupees for each day during which the failure continues.]

Penalty for neglecting or disobeying orders of mukaddam or agent.

[2] [**161-B.** Any person who neglects or disobeys a reasonable order made by a mukaddam or agent of a mukuddam in pursuance of the duty imposed upon him by section 141, clause (*e*), shall be [1] [liable, on the order of a Deputy Commissioner, to a fine] which may extend to twenty rupees, and, if the neglect or disobedience is continued, shall also be liable to a fine of five rupees for each day during which the neglect or disobedience is continued.]

State Government may make rules and attach penalty to breach thereof.

162. The [3] [State Government] may [4] [* * *] make rules consistent with this Act for carrying out its provisions, and may attach to the breach of any such rule, or of any other rule made by [5] [it] under this Act, a penalty which may extend to two hundred rupees, or, when such breach is a continuing breach, to fifty rupees for each day during which such breach continues.

All powers to make rules conferred by this Act on the [3] [State Government] [6] [* * * * *] may be exercised from time to time as occasion requires.

No rule made by the [5] [State Government] under this Act shall take effect until it has been published in the [7] [Official Gazette].

All such rules, when so published, shall have the force of law.

SCHEDULE.

[ENACTMENTS REPEALED.]

Repealed by the Repealing and Amending Act, 1891 (*Central Act XII of* 1891).	Central Act XII of 1891.

[1] These words were substituted for the words "punishable with fine" by the Central Provinces Land-revenue Act, 1898 (Central Act XII of 1898), s. 12.

[2] Sections 161-A and 161-B were inserted by the Central Provinces Land revenue Act, 1889 (Central Act XVI of 1889), s. 39.

[3] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] The words "with the previous sanction of the Governor-General in Council" were omitted by the Adaptation Order of 1937.

[5] This word was substituted for the word "him" by the Adaptation Order of 1937.

[6] The words "shall be exercised subject to the control of the Governor-General in Council and" were omitted by the Adaptation Order of 1937.

[7] These words were substituted for the words "local official Gazette" by *ibid.*

THE INDIAN EASEMENTS ACT, 1882.

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ACT No. V OF 1882.[1]

[THE INDIAN EASEMENTS ACT, 1882.]

[*17th February 1882.*]

An Act to define and amend the law relating to Easements and Licences.

WHEREAS it is expedient to define and amend the law relating to Easements and Licences; It is hereby enacted as follows :— **Preamble.**

PRELIMINARY.

1. This Act may be called the Indian Easements Act 1882. [2] **Short title.**

It extends to the territories respectively administered by the Governor of Madras in Council and the Chief Commissioners of the Central Provinces and Coorg ; **Local extent.**

and it shall come into force on the first day of July, 1882. **Commencement.**

2. Nothing herein contained shall be deemed to affect any law not hereby expressly repealed, or to derogate from— **Savings.**

(*a*) any right of the [3][Government] to regulate the collection, retention and distribution of the water of rivers and streams flowing in natural channels, and of natural lakes and ponds, or of the water flowing, collected, retained or distributed in or by any channel or other work constructed at the public expense for irrigation ;

(*b*) any customary or other right (not being a licence) in or over immovable property which the [3][Government], the public or any person may possess irrespective of other immovable property ; or

(*c*) any right acquired, or arising out of a relation created, before this Act comes into force.

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[1] For Statement of Objects and Reasons, *see Gazette of India*, 1880, Pt. V, p. 494 ; for Report of the Select Committee, *see ibid.*, 1881, Pt. V, p. 1021 ; and for Proceedings in Council, *see ibid.*, 1881, Supplement, pp. 687 and 766, and *ibid.*, 1882, Supplement, p. 172.

[2] The Act was extended to—

(1) Ajmer-Merwara by notification under section 5 of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), see *Gazette of India*, 1897, Pt. II, p. 1413.

(2) The territories administered by the Governor of Bombay in Council, the Lieutenant-Governor of the North-Western Province and the Chief Commissioner of Oudh by Act VIII of 1891.

[3] The word "Crown" was substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

Construction of certain references to Central Act XV of 1877 and Central Act IX of 1871.

[1] [3. All references in any Act or Regulation to sections 26 and 27 of the Indian Limitation Act, 1877 [2], or to sections 27 and 28 of Act No. IX of 1871 [3], shall, in the territories to which this Act extends, be read as made to sections 15 and 16 of this Act.]

CHAPTER I.

OF EASEMENTS GENERALLY.

"Easement" defined.

4. An easement is a right which the owner or occupier of certain land possesses, as such, for the beneficial enjoyment of that land, to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of, certain other land not his own.

Dominant and servient heritages and owners.

The land for the beneficial enjoyment of which the right exists is called the dominant heritage, and the owner or occupier thereof the dominant owner; the land on which the liability is imposed is called the servient heritage, and the owner or occupier thereof the servient owner.

Explanation.—In the first and second clauses of this section the expression "land" includes also things permanently attached to the earth: the expression "beneficial enjoyment" includes removal and appropriation by the dominant owner, even a mere amenity; and the expression "to do something" includes removal and appropriation by the dominant owner, for the beneficial enjoyment of the dominant heritage, of any part of the soil of the servient heritage or anything growing or subsisting thereon.

Illustrations.

(*a*) *A*, as the owner of a certain house, has a right of way thither over his neighbour *B*'s land for purposes connected with the beneficial enjoyment of the house. This is an easement.

(*b*) *A*, as the owner of a certain house, has the right to go on his neighbour *B*'s land and to take water for the purposes of his household out of a spring therein. This is an easement.

(*c*) *A*, as the owner of a certain house, has the right to conduct water from *B*'s stream to supply the fountains in the garden attached to the house. This is an easement.

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[1] This section was substituted for the original section 3 by the Repealing and Amending Act, 1914 (Central Act X of 1914), s. 2 and Sch. I.

[2] Repealed by the Indian Limitation Act, 1908 (Central Act IX of 1908).

[3] Repealed by Central Act XV of 1877.

(*d*) *A*, as the owner of a certain house and farm, has the right to graze a certain number of his own cattle on *B*'s field, or to take, for the purpose of being used in the house, by himself, his family, guests, lodgers and servants, water or fish out of *C*'s tank, or timber out of *D*'s wood, or to use, for the purpose of manuring his land, the leaves which have fallen from the trees on *E*'s land. These are easements.

(*e*) *A* dedicates to the public the right to occupy the surface of certain land for the purpose of passing and re-passing. This right is not an easement.

(*f*) *A* is bound to cleanse a watercourse running through his land and keep it free from obstruction for the benefit of *B*, a lower riparian owner. This is not an easement.

Continuous and discontinuous, apparent and non-apparent, easements.

5. Easements are either continuous or discontinuous, apparent or non-apparent.

A continuous easement is one whose enjoyment is or may be continual without the act of man.

A discontinuous easement is one that needs the act of man for its enjoyment.

An apparent easement is one the existence of which is shown by some permanent sign which upon careful inspection by a competent person would be visible to him.

A non-apparent easement is one that has no such sign.

Illustrations.

(*a*) *A* right annexed to *B*'s house to receive light by the windows without obstruction by his neighbour *A*. This is a continuous easement.

(*b*) *A* right of way annexed to *A*'s house over *B*'s land. This is a discontinuous easement.

(*c*) Rights annexed to *A*'s land to lead water thither across *B*'s land by an aqueduct and to draw off water thence by a drain. The drain would be discovered upon careful inspection by a person conversant with such matters. These are apparent easements.

(*d*) *A* right annexed to *A*'s house to prevent *B* from building on his own land. This is a non-apparent easement.

Easement for limited time or on condition.

6. An easement may be permanent or for a term of years or other limited period, or subject to periodical interruption, or exercisable only at a certain place, or at certain times, or between certain hours, or for a particular purpose, or on condition that it shall commence or become void or voidable on the happening of a specified event or the performance or non-performance of a specified act.

Easements restrictive of certain rights.

7. Easements are restrictions of one or other of the following rights (namely) :—

Exclusive right to enjoy.

(*a*) The exclusive right of every owner of immovable property (subject to any law for the time being in force) to enjoy and dispose of the same and all products thereof and accessions thereto.

(Chapter I.—Of Easements generally. Chapter II.—The Imposition, Acquisition and transfer of Easements.)

Rights to advantages arising from situation.

(*b*) The right of every owner of immovable property (subject to any law for the time being in force) to enjoy without disturbance by another the natural advantages arising from its situation.

Illustrations of the rights above referred to.

(*a*) The exclusive right of every owner of land in a town to build on such land, subject to any municipal law for the time being in force.

(*b*) The right of every owner of land that the air passing thereto shall not be unreasonably polluted by other persons.

(*c*) The right of every owner of a house that his physical comfort shall not be interfered with materially and unreasonably by noise or vibration caused by any other person.

(*d*) The right of every owner of land to so much light and air as pass vertically thereto.

(*e*) The right of every owner of land that such land, in its natural condition, shall have the support naturally rendered by the subjacent and adjacent soil of another person.

Explanation.—Land is in its natural condition when it is not excavated and not subjected to artificial pressure ; and the " subjacent and the adjacent soil " mentioned in this illustration means such soil only as in its natural condition would support the dominant heritage in its natural condition.

(*f*) The right of every owner of land that, within his own limits, the water which naturally passes or percolates by over or through his land shall not, before so passing or percolating, be unreasonably polluted by other persons.

(*g*) The right of every owner of land to collect and dispose within his own limits of all water under the land which does not pass in a defined channel and all water on its surface which does not pass in a defined channel.

(*h*) The right of every owner of land that the water of every natural stream which passes by, through or over his land in a defined natural channel shall be allowed by other persons to flow within such owner's limits without interruption and without material alteration in quantity, direction, force or temperature ; the right of every owner of land abutting on a natural lake or pond into or out of which a natural stream flows, that the water of such lake or pond shall be allowed by other persons to remain within such owner's limits without material alteration in quantity or temperature.

(*i*) The right of every owner of upper land that water naturally rising in, or falling on such land, and not passing in defined channels, shall be allowed by the owner of adajacent lower land, to run naturally thereto.

(*j*) The right of every owner of land abutting on a natural stream, lake or pond to use and consume its water for drinking, household purposes and watering his cattle and sheep ; and the right of every such owner to use and consume the water for irrigating such land, and for the purposes of any manufactory situate thereon, provided that he does not thereby cause material injury to other like owners.

Explanation.—A natural stream is a stream, whether permanent or intermittent, tidal or tideless, on the surface of land or underground, which flows by the operation of nature only and in a natural and known course.

CHAPTER II.

THE IMPOSITION, ACQUISITION AND TRANSFER OF EASEMENTS.

Who may impose easements.

8. An easement may be imposed by any one in the circumstances, and to the extent, in and to which he may transfer

his interest in the heritage on which the liability is to be imposed.

Illustrations.

(*a*) *A* is tenant of *B*'s land under a lease for an unexpired term of twenty years, and has power to transfer his interest under the lease. *A* may impose an easement on the land to continue during the time that the lease exists or for any shorter period.

(*b*) *A* is tenant for his life of certain land with remainder to *B* absolutely. *A* cannot, unless with *B*'s consent, impose an easement thereon which will continue after the determination of his life-interest.

(*c*) *A*, *B* and *C* are co-owners of certain land. *A* cannot, without the consent of *B* and *C*, impose an easement on the land or on any part thereof.

(*d*) *A* and *B* are lessees of the same lessor, *A* of a field *X* for a term of five years and *B* of a field *Y* for a term of ten years. *A*'s interest under his lease is transferable: *B*'s is not. *A* may impose on *X*, in favour of *B*, a right of way terminable with *A*'s lease.

Servient owners.

9. Subject to the provisions of section 8 a servient owner may impose on the servient heritage any easement that does not lessen the utility of the existing easement. But he cannot, without the consent of the dominant owner, impose an easement on the servient heritage which would lessen such utility.

Illustrations.

(*a*) *A* has, in respect of his mill, a right to the uninterrupted flow thereto, from sunrise to noon, of the water of *B*'s stream. *B* may grant to *C* the right to divert the water of the stream from noon to sunset: provided that *A*'s supply is not thereby diminished.

(*b*) *A* has, in respect of his house, a right of way over *B*'s land. *B* may grant to *C*, as the owner of a neighbouring farm, the right to feed his cattle on the grass growing on the way: provided that *A*'s right of way is not thereby obstructed.

Lessor and mortgagor.

10. Subject to the provisions of section 8, a lessor may impose, on the property leased, any easement that does not derogate from the rights of the lessee as such, and a mortgagor may impose, on the property mortgaged, any easement that does not render the security insufficient. But a lessor or mortgagor cannot, without the consent of the lessee or mortgagee, impose any other easement on such property, unless it be to take effect on the termination of the lease or the redemption of the mortgage.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half the amount for the time being due on the mortgage.

Lessee.

11. No lessee or other person having a derivative interest may impose on the property held by him as such an

easement to take effect after the expiration of his own interest, or in derogation of the right of the lessor or the superior proprietor.

Who may acquire easements.

12. An easement may be acquired by the owner of the immovable property for the beneficial enjoyment of which the right is created, or on his behalf by any person in possession of the same.

One of two or more co-owners of immovable property may, as such, with or without the consent of the other or others, acquire an easement for the beneficial enjoyment of such property.

No lessee of immovable property can acquire, for the beneficial enjoyment of other immovable property of his own, an easement in or over the property comprised in his lease.

Easements of necessity and *quasi*-easements.

13. Where one person transfers or bequeaths immovable property to another—

(*a*) if an easement in other immovable property of the transferor or testator is necessary for enjoying the subject of the transfer or bequest, the transferee or legatee shall be entitled to such easement;

(*b*) if such an easement is apparent and continuous and necessary for enjoying the said subject as it was enjoyed when the transfer or bequest took effect, the transferee or legatee shall, unless a different intention is expressed or necessarily implied, be entitled to such easement;

(*c*) if an easement in the subject of the transfer or bequest is necessary for enjoying other immovable property of the transferor or testator, the transferor or the legal representative of the testator shall be entitled to such easement; or

(*d*) if such an easement is apparent and continuous and necessary for enjoying the said property as it was enjoyed when the transfer or bequest took effect, the transferor, or the legal representative of the testator, shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

Where a partition is made of the joint property of several persons—

(*e*) if an easement over the share of one of them is necessary for enjoying the share of another of them, the latter shall be entitled to such easement; or,

(*f*) if such an easement is apparent and continuous and necessary for enjoying the share of the latter as it was enjoyed when the partition took effect, he shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

(Chapter II.—The Imposition, Acquisition and Transfer of Easements.)

The easements mentioned in this section, clauses (*a*), (*c*) and (*e*), are called easements of necessity.

Where immovable property passes by operation of law, the persons from and to whom it so passes are, for the purpose of this section, to be deemed, respectively, the transferor and transferee.

Illustrations.

(*a*) *A* sells *B* a field then used for agricultural purposes only. It is inaccessible except by passing over *A*'s adjoining land or by trespassing on the land of a stranger. *B* is entitled to a right of way, for agricultural purposes only, over *A*'s adjoining land to the field sold.

(*b*) *A*, the owner of two fields, sells one to *B* and retains the other. The field retained was at the date of the sale used for agricultural purposes only, and is inaccessible except by passing over the field sold to *B*. *A* is entitled to a right of way, for agricultural purposes only, over *B*'s field to the field retained.

(*c*) *A* sells *B* a house with windows overlooking *A*'s land, which *A* retains. The light which passes over *A*'s land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. *B* is entitled to the light, and *A* cannot afterwards obstruct it by building on his land.

(*d*) *A* sells *B* a house with windows overlooking *A*'s land. The light passing over *A*'s land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. Afterwards *A* sells the land to *C*. Here *C* cannot obstruct the light by building on the land, for he takes it subject to the burdens to which it was subject in *A*'s hands.

(*e*) *A* is the owner of a house and adjoining land. The house has windows overlooking the land. *A* simultaneously sells the house to *B* and the land to *C*. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. Here *A* impliedly grants *B* a right to the light, and *C* takes the land subject to the restriction that he may not build so as to obstruct such light.

(*f*) *A* is the owner of a house and adjoining land. The house has windows overlooking the land. *A*, retaining the house, sells the land to *B*, without expressly reserving any easement. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. *A* is entitled to the light and *B* cannot build on the land so as to obstruct such light.

(*g*) *A*, the owner of a house, sells *B* a factory built on adjoining land. *B* is entitled, as against *A*, to pollute the air, when necessary, with smoke land vapours from the factory.

(*h*) *A*, the owner of two adjoining houses *Y* and *Z*, sells *Y* to *B* and retains *Z*. *B* is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying *Y* as it was enjoyed when the sale took effect, and *A* is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying *Z* as it was enjoyed when the sale took effect.

(*i*) *A*, the owner of two adjoining buildings, sells one to *B*, retaining the other. *B* is entitled to a right to lateral support from *A*'s building, and *A* is entitled to a right to lateral support from *B*'s building.

(*j*) *A*, the owner of two adjoining buildings, sells one to *B* and the other to *C*. *C* is entitled to lateral support from *B*'s building, and *B* is entitled to lateral support from *C*'s building.

(*k*) *A* grants lands to *B* for the purpose of building a house thereon. *B* is entitled to such amount of lateral and subjacent support from *A*'s land as is necessary for the safety of the house.

Central Act X of 1870.

(*l*) Under the Land Acquisition Act, 1870,[1] a Railway Company compulsorily acquires a portion of *B*'s land for the purpose of making a siding. The company is entitled to such amount of lateral support from *B*'s adjoining land as is essential for the safety of the siding.

[1] *See* now the Land Acquisition Act, 1894 (Central Act I of 1894).

(*m*) Owing to the partition of joint property, *A* becomes the owner of an upper room in a building, and *B* becomes the owner of the portion of the building immediately beneath it. *A* is entitled to such amount of vertical support from *B*'s portion as is essential for the safety of the upper room.

(*n*) *A* lets a house and grounds to *B* for a particular business. *B* has no access to them other than by crossing *A*'s land. *B* is entitled to a right of way over that land suitable to the business to be carried on by *B* in the house and grounds.

Direction of way of necessity.

14. When [1][a right] to a way of necessity is created under section 13, the transferor, the legal representative of the testator or the owner of the share over which the right is exercised, as the case may be, is entitled to set out the way; but it must be reasonably convenient for the dominant owner.

When the person so entitled to set out the way refuses or neglects to do so, the dominant owner may set it out.

Acquisition by prescription.

15. Where the access and use of light or air to and for any building have been peaceably enjoyed therewith, as an easement, without interruption, and for twenty years, and

where support from one person's land or things affixed thereto, has been peaceably received by another person's land subjected to artificial pressure, or by things affixed thereto, as an easement, without interruption, and for twenty years,

and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, support or other easement shall be absolute.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

Explanation I.—Nothing is an enjoyment within the meaning of this section when it has been had in pursuance of an agreement with the owner or occupier of the property over which the right is claimed, and it is apparent from the agreement that such right has not been granted as an easement, or, if granted as an easement, that it has been granted for a limited period, or subject to a condition on the fulfilment of which it is to cease.

Explanation II.—Nothing is an interruption within the meaning of this section unless where there is an actual cessation of the enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such

[1] The words "a right" were substituted for the word "right" by the Amending Act, 1891 (Central Act XII of 1891).

obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

Explanation III.—Suspension of enjoyment in pursuance of a contract between the dominant and servient owners is not an interruption within the meaning of this section.

Explanation IV.—In the case of an easement to pollute water, the said period of twenty years begins when the pollution first prejudices perceptibly the servient heritage.

When the property over which a right is claimed under this section belongs to [1][the Government], this section shall be read as if for the words "twenty years" the words "sixty years" were substituted.

Illustrations.

(*a*) A suit is brought in 1883 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from 1st January 1862 to 1st January 1882. The plaintiff is entitled to judgment.

(*b*) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that for a year of that time the plaintiff was entitled to possession of the servient heritage as lessee thereof and enjoyed the right as such lessee. The suit shall be dismissed, for the right of way has not been enjoyed "as an easement" for twenty years.

(*c*) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed, for the right of way has not been enjoyed "as of right" for twenty years.

Exclusion in favour of reversioner of servient heritage.

16. Provided that, when any land upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land.

Illustration.

A sues for a declaration that he is entitled to a right of way over *B*'s land. *A* proves that he has enjoyed the right for twenty-five years; but *B* shows that during ten of these years *C* had a life-interest in the land; that on *C*'s death *B* became entitled to the land; and that within two years after *C*'s death he contested *A*'s claim to the right. The suit must be dismissed, as *A*, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

[1] The words "the Crown" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted or "Crown" by the Adaptation Order of 1950.

(Chapter II.—The Imposition, Acquisition and Transfer of Easements. Chapter III.—The Incidents of Easements.)

Rights which cannot be acquired by prescription.

17. Easements acquired under section 15 are said to be acquired by prescription, and are called prescriptive rights.

None of the following rights can be so acquired :—

(*a*) a right which would tend to the total destruction of the subject of the right, or the property on which, if the acquisition were made, liability would be imposed ;

(*b*) a right to the free passage of light or air to an open space of ground ;

(*c*) a right to surface-water not flowing in a stream and not permanently collected in a pool, tank or otherwise ;

(*d*) a right to underground water not passing in a defined channel.

Customary easements.

18. An easement may be acquired in virtue of a local custom. Such easements are called customary easements.

Illustrations.

(*a*) By the custom of a certain village every cultivator of village-land is entitled, as such, to graze his cattle on the common pasture. *A*, having become the tenant of a plot of uncultivated land in the village, breaks up and cultivates that plot. He thereby acquires an easement to graze his cattle in accordance with the custom.

(*b*) By the custom of a certain town no owner or occupier of a house can open a new window therein so as substantially to invade his neighbour's privacy. *A* builds a house in the town near *B*'s house. *A* thereupon acquires an easement that *B* shall not open new windows in his house so as to command a view of the portions of *A*'s house which are ordinarily excluded from observation, and *B* acquires a like easement with respect to *A*'s house.

Transfer of dominant heritage passes easement.

19. Where the dominant heritage is transferred or devolves, by act of parties or by operation of law, the transfer or devolution shall, unless a contrary intention appears, be deemed to pass the easement to the person in whose favour the transfer or devolution takes place.

Illustration.

A has certain land to which a right of way is annexed. *A* lets the land to *B* for twenty years. The right of way vests in *B* and his legal representative so long as the lease continues.

CHAPTER III.

The Incidents of Easements.

Rules controlled by contract or title.

20. The rules contained in this Chapter are controlled by any contract between the dominant and servient owners relating to the servient heritage, and by the provisions of the instrument of decree, if any, by which the easement referred to was imposed.

Incidents of customary easements.

And, when any incident of any customary easement is inconsistent with such rules, nothing in this Chapter shall affect such incident.

Bar to use unconnected with enjoyment.

21. An easement must not be used for any purpose not connected with the enjoyment of the dominant heritage.

Illustrations.

(*a*) *A*, as owner of a farm *Y*, has a right of way over *B*'s land to *Y*. Lying beyond *Y*, *A* has another farm *Z*, the beneficial enjoyment of which is not necessary for the beneficial enjoyment of *Y*. He must not use the easement for the purpose of passing to and from *Z*.

(*b*) *A*, as owner of a certain house, has a right of way to and from it. For the purpose of passing to and from the house the right may be used, not only by *A*, but by the members of his family, his guests, lodgers, servants, workmen, visitors and customers; for this is a purpose connected with the enjoyment of the dominant heritage. So, if *A* lets the house, he may use the right of way for the purpose of collecting the rent and seeing that the house is kept in repair.

Exercise of easement. Confinement of exercise of easement.

22. The dominant owner must exercise his right in the mode which is least onerous to the servient owner; and, when the exercise of an easement can without detriment to the dominant owner be confined to a determinate part of the servient heritage, such exercise shall, at the request of the servient owner, be so confined.

Illustrations.

(*a*) *A* has a right of way over *B*'s field. *A* must enter the way at either end and not at any intermediate point.

(*b*) *A* has a right annexed to his house to cut thatching grass in *B*'s swamp. *A*, when exercising his easement, must cut the grass so that the plants may not be destroyed.

Right to alter mode of enjoyment.

23. Subject to the provisions of section 22, the dominant owner may, from time to time, alter the mode and place of enjoying the easement, provided that he does not thereby impose any additional burden on the servient heritage.

Exception.—The dominant owner of a right of way cannot vary his line of passage at pleasure even though he does not thereby impose any additional burden on the servient heritage.

Illustrations.

(*a*) *A*, the owner of a saw-mill, has a right to a flow of water sufficient to work the mill. He may convert the saw-mill into a corn-mill, provided that it can be worked by the same amount of water.

(*b*) *A* has a right to discharge on *B*'s land the rain-water from the eaves of *A*'s house. This does not entitle *A* to advance his eaves if, by so doing, he imposes a greater burden on *B*'s land.

(*c*) *A*, as the owner of a paper-mill, acquires a right to pollute a stream by pouring in the refuse-liquor produced by making in the mill, paper from rags. He may pollute the stream by pouring in similar liquor produced by making in the mill paper by a new process from bamboos, provided that he does not substantially increase the amount, or injuriously change the nature, of the pollution.

(*d*) *A*, a riparian owner, acquires, as against the lower riparian owners, a prescriptive right to pollute a stream by throwing sawdust into it. This does not entitle *A* to pollute the stream by discharging into it poisonous liquor.

(Chapter III.—The Incidents of Easements.)

Right to do acts to secure enjoyment.

24. The dominant owner is entitled, as against the servient owner, to do all acts necessary to secure the full enjoyment of the easement; but such acts must be done at such time and in such manner as, without detriment to the dominant owner, to cause the servient owner as little inconvenience as possible; and the dominant owner must repair, as far as practicable, the damage (if any) caused by the act to the servient heritage.

Accessory rights.

Rights to do acts necessary to secure the full enjoyment of an easement are called accessory rights.

Illustrations.

(*a*) *A* has an easement to lay pipes in *B*'s land to convey water to *A*'s cistern. A may enter and dig the land in order to mend the pipes, but he must restore the surface to its original state.

(*b*) *A* has an easement of a drain through *B*'s land. The sewer with which the drain communicates is altered. *A* may enter upon *B*'s land and alter the drain, to adapt it to the new sewer, provided that he does not thereby impose any additional burden on *B*'s land.

(*c*) *A*, as owner of a certain house, has a right of way over *B*'s land. The way is out of repair, or a tree is blown down and falls across it. *A* may enter on *B*'s land and repair the way or remove the tree from it.

(*d*) *A*, as owner of a certain field, has a right of way over *B*'s land. *B* renders the way impassable. *A* may deviate from the way and pass over the adjoining land of *B*, provided that the deviation is reasonable.

(*e*) *A*, as owner of a certain house, has a right of way over *B*'s field. *A* may remove rocks to make the way.

(*f*) *A* has an easement of support from *B*'s wall. The wall gives way. *A* may enter upon *B*'s land and repair the wall.

(*g*) *A* has an easement to have his land flooded by means of a dam in *B*'s stream. The dam is half swept away by an inundation. *A* may enter upon *B*'s land and repair the dam.

Liability for expenses necessary for preservation of easement.

25. The expenses incurred in constructing works, or making repairs, or doing any other act necessary for the use or preservation of an easement, must be defrayed by the dominant owner.

Liability for damage from want of repair.

26. Where an easement is enjoyed by means of an artificial work, the dominant owner is liable to make compensation for any damage to the servient heritage arising from the want of repair of such work.

Servient owner not bound to do anything.

27. The servient owner is not bound to do anything for the benefit of the dominant heritage and he is entitled, as against the dominant owner, to use the servient heritage in any way consistent with the enjoyment of the easement; but he must not do any act tending to restrict the easement or to render its exercise less convenient.

Illustrations.

(*a*) *A*, as owner of a house, has a right to lead water and send sewage through *B*'s land. *B* is not bound as servient owner to clear the water course or scour the sewer.

(*b*) *A* grants a right of way through his land to *B* as owner of a field. *A* may feed his cattle on grass growing on the way, provided that *B*'s right of way is not thereby obstructed; but he must not build a wall at the end of his land so as to prevent *B* from going beyond it, nor must he narrow the way so as to render the exercise of the right less easy than it was at the date of the grant.

(*c*) *A*, in respect of his house, is entitled to an easement of support from *B*'s wall. *B* is not bound as servient owner to keep the wall standing and in repair. But he must not pull down or weaken the wall so as to make it incapable of rendering the necessary support.

(*d*) *A*, in respect of his mill, is entitled to a watercourse through *B*'s land. *B* must not drive stakes so as to obstruct the watercourse.

(*e*) *A*, in respect of his house, is entitled to a certain quantity of light passing over *B*'s land. *B* must not plant trees so as to obstruct the passage to *A*'s windows of that quantity of light.

28. With respect to the extent of easements and the mode of their enjoyment, the following provisions shall take effect :— Extent of easements.

An easement of necessity is co-extensive with the necessity as it existed when the easement was imposed. Easement of necessity.

The extent of any other easement and the mode of its enjoyment must be fixed with reference to the probable intention of the parties, and the purpose for which the right was imposed or acquired. Other easements.

In the absence of evidence as to such intention and purpose—

(*a*) a right of way of any one kind does not include a right of way of any other kind ; Right of way.

(*b*) the extent of a right to the passage of light or air to a certain window, door or other opening, imposed by a testamentary or non-testamentary instrument, is the quantity of light or air that entered the opening at the time the testator died or the non-testamentary instrument was made ; Right to light or air acquired by grant.

(*c*) the extent of a prescriptive right to the passage of light or air to a certain window, door or other opening is that quantity of light or air which has been accustomed to enter that opening during the whole of the prescriptive period irrespectively of the purposes for which it has been used ; Prescriptive right to light or air.

(*d*) the extent of a prescriptive right to pollute air or water is the extent of the pollution at the commencement of the period of user on completion of which the right arose ; and Prescriptive right to pollute air and water.

(*e*) the extent of every other prescriptive right and the mode of its enjoyment must be determined by the accustomed user of the right. Other prescriptive rights.

29. The dominant owner cannot, by merely altering or adding to the dominant heritage, substantially increase an easement. Increase of easement.

Where an easement has been granted or bequeathed so that its extent shall be proportionate to the extent of the dominant heritage, if the dominant heritage is increased by alluvion,

the easement is proportionately increased, and, if the dominant heritage is diminished by diluvion, the easement is proportionately diminished.

Save as aforesaid, no easement is affected by any change in the extent of the dominant or the servient heritage.

Illustrations.

(*a*) *A*, the owner of a mill, has acquired a prescriptive right to divert to his mill part of the water of a stream. *A* alters the machinery of his mill. He cannot thereby increase his right to divert water.

(*b*) *A* has acquired an easement to pollute a stream by carrying on a manufacture on its banks by which a certain quantity of foul matter is discharged into it. *A* extends his works and thereby increases the quantity discharged. He is responsible to the lower riparian owners for injury done by such increase.

(*c*) *A*, as the owner of a farm, has a right to take, for the purpose of manuring his farm, leaves which have fallen from the trees on *B*'s land. *A* buys a field and unites it to his farm. *A* is not thereby entitled to take leaves to manure this field.

Partition of dominant heritage.

30. Where a dominant heritage is divided between two or more persons the easement becomes annexed to each of the shares, but not so as to increase substantially the burden on the servient heritage: provided that such annexation is consistent with the terms of the instrument, decree or revenue-proceeding (if any) under which the division was made, and, in the case of prescriptive rights, with the user during the prescriptive period.

Illustrations.

(*a*) A house to which a right of way by a particular path is annexed is divided into two parts, one of which is granted to *A*, the other to *B*. Each is entitled, in respect of his part, to a right of way by the same path.

(*b*) A house to which is annexed the right of drawing water from a well to the extent of fifty buckets a day is divided into two distinct heritages, one of which is granted to *A*, the other to *B*. *A* and *B* are each entitled, in respect of his heritage to draw from the well fifty buckets a day; but the amount drawn by both must not exceed fifty buckets a day.

(*c*) *A*, having in respect of his house an easement of light, divides the house into three distinct heritages. Each of these continues to have the right to have its windows unobstructed.

Obstruction in case of excessive user.

31. In the case of excessive user of an easement the servient owner may, without prejudice to any other remedies to which he may be entitled, obstruct the user, but only on the servient heritage: provided that such user cannot be obstructed when the obstruction would interfere with the lawful enjoyment of the easement.

Illustration.

A, having a right to the free passage over *B*'s land of light to four windows, six feet by four, increases their size and number. It is impossible to obstruct the passage of light to the new windows without also obstructing the passage of light to the ancient windows. *B* cannot obstruct the excessive user.

CHAPTER IV.

THE DISTURBANCE OF EASEMENTS.

Right to enjoyment without disturbance.

32. The owner or occupier of the dominant heritage is entitled to enjoy the easement without disturbance by any other person.

Illustration.

A, as owner of a house, has a right of way over *B*'s land. *C* unlawfully enters on *B*'s land and obstructs *A* in his right of way. *A* may sue *C* for compensation, not for the entry, but for the obstruction.

Suit for disturbance of easement.

33. The owner of any interest in the dominant heritage, or the occupier of such heritage, may institute a suit for compensation for the disturbance of the easement or of any right accessory thereto: provided that the disturbance has actually caused substantial damage to the plaintiff.

Explanation I.—The doing of any act likely to injure the plaintiff by affecting the evidence of the easement, or by materially diminishing the value of the dominant heritage, is substantial damage within the meaning of this section and section 34.

Explanation II.—Where the easement disturbed is a right to the free passage of light passing to the openings in a house, no damage is substantial within the meaning of this section unless it falls within the first explanation, or interferes materially with the physical comfort of the plaintiff, or prevents him from carrying on his accustomed business in the dominant heritage as beneficially as he had done previous to instituting the suit.

Explanation III.—Where the easement disturbed is a right to the free passage of air to the openings in a house, damage is substantial within the meaning of this section if it interferes materially with the physical comfort of the plaintiff, though it is not injurious to his health.

Illustrations.

(*a*) *A* places a permanent obstruction in a path over which *B*, as tenant of *C*'s house, has a right of way. This is substantial damage to *C*, for it may affect the evidence of his reversionary right to the easement.

(*b*) *A*, as owner of a house, has a right to walk along one side of *B*'s house. *B* builds a veranda overhanging the way about ten feet from the ground, and so as not to occasion any inconvenience to foot-passengers using the way. This is not substantial damage to *A*.

When cause of action arises for removal of support.

34. The removal of the means of support to which a dominant owner is entitled does not give rise to a right to recover compensation unless and until substantial damage is actually sustained.

(Chapter IV.—The Disturbance of Easements. Chapter V.—The Extinction, Suspension and Revival of Easements.)

Injunction to restrain disturbance.

35. Subject to the provisions of the Specific Relief Act, 1877, sections 52 to 57 (both inclusive) an injunction may be granted to restrain the disturbance of an easement— Central Act I of 1877.

(*a*) if the easement is actually disturbed—when compensation for such disturbance might be recovered under this Chapter :

(*b*) if the disturbance is only threatened or intended—when the act threatened or intended must necessarily, if performed, disturb the easement.

Abatement of obstruction of easement.

36. Notwithstanding the provisions of section 24, the dominant owner cannot himself abate a wrongful obstruction of an easement.

CHAPTER V.

The Extinction, Suspension and Revival of Easements.

Extinction by dissolution of right of servient owner.

37. When, from a cause which preceded the imposition of an easement, the person by whom it was imposed ceases to have any right in the servient heritage, the easement is extinguished.

"*Exception*".—Nothing in this section applies to an easement lawfully imposed by a mortgagor in accordance with section 10.

Illustrations.

(*a*) *A* transfers Sultanpur to *B* on condition that he does not marry *C*. *B* imposes an easement on Sultanpur. Then *B* marries *C*. *B*'s interest in Sultanpur ends, and with it the easement is extinguished.

(*b*) *A*, in 1860, let Sultanpur to *B* for thirty years from the date of the lease. *B*, in 1861, imposes an easement on the land in favour of *C*, who enjoys the easement peaceably and openly as an easement without interruption for twenty-nine years. *B*'s interest in Sultanpur then ends, and with it *C*'s easement.

(*c*) *A* and *B*, tenants of *C*, have permanent transferable interests in their respective holdings. *A* imposes on his holding an easement to draw water from a tank for the purpose of irrigating *B*'s land. *B* enjoys the easement for twenty years. Then *A*'s rent falls into arrear and his interest is sold. *B*'s easement is extinguished.

(*d*) *A* mortgages Sultanpur to *B*, and lawfully imposes an easement on the land in favour of *C* in accordance with the provisions of section 10. The land is sold to *D* in satisfaction of the mortgage-debt. The easement is not thereby extinguished.

Extinction by release.

38. An easement is extinguished when the dominant owner releases it expressly or impliedly to the servient owner.

Such release can be made only in the circumstances and to the extent in and to which the dominant owner can alienate the dominant heritage.

(*Chapter V.—The Extinction, Suspension and Revival of Easements.*)

An easement may be released as to part only of the servient heritage.

Explanation I.—An easement is impliedly released—

(*a*) where the dominant owner expressly authorises an act of a permanent nature to be done on the servient heritage, the necessary consequence of which is to prevent his future enjoyment of the easement, and such act is done in pursuance of such authority ;

(*b*) where any permanent alteration is made in the dominant heritage of such a nature as to show that the dominant owner intended to cease to enjoy the easement in future.

Explanation II.—Mere non-user of an easement is not an implied release within the meaning of this section.

Illustrations.

(*a*) *A*, *B* and *C* are co-owners of a house to which an easement in annexed. *A*, without the consent of *B* and *C*, releases the easement. This release is effectual only as against *A* and his legal representative.

(*b*) *A* grants *B* an easement over *A*'s land for the beneficial enjoyment of his house. *B* assigns the house to *C*, *B* then purports to release the easement. The release is ineffectual.

(*c*) *A*, having the right to discharge his eaves droppings into *B*'s yard, expressly authorises *B* to build over this yard to a height which will interfere with the discharge. *B* builds accordingly. *A*'s easement is extinguished to the extent of the interference.

(*d*) *A*, having an easement of right to a window, builds up that window with bricks and mortar so as to manifest an intention to abandon the easement permanently. The easement is impliedly released.

(*e*) *A*, having a projecting roof by means of which he enjoys an easement to discharge eaves droppings on *B*'s land, permanently alters the roof so as to direct the rain-water into a different channel and discharge it on *C*'s land. The easement is impliedly released.

Extinction by revocation.

39. An easement is extinguished when the servient owner, in exercise of a power reserved in this behalf, revokes the easement.

Extinction on expiration of limited period or happening of dissolving condition.

40. An easement is extinguished where it has been imposed for a limited period or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled.

Extinction on termination of necessity.

41. An easement of necessity is extinguished when the necessity comes to an end.

Illustration.

A grants *B* a field inaccessible except by passing over *A*'s adjoining land. *B* afterwards purchases a part of that land over which he can pass to his field. The right of way over *A*'s land which *B* had acquired is extinguished.

Extinction of useless easement.

42. An easement is extinguished when it becomes incapable of being at any time and under any circumstances beneficial to the dominant owner.

(Chapter V.—The Extinction, Suspension and Revival of Easements.)

Extinction by permanent change in dominant heritage.

43. Where, by any permanent change in the dominant heritage, the burden on the servient heritage is materially increased and cannot be reduced by the servient owner without interfering with the lawful enjoyment of the easement, the easement is extinguished, unless—

(*a*) it was intended for the beneficial enjoyment of the dominant heritage, to whatever extent the easement should be used; or

(*b*) the injury caused to the servient owner by the change is so slight that no reasonable person would complain of it; or

(*c*) the easement is an easement of necessity.

Nothing in this section shall be deemed to apply to an easement entitling the dominant owner to support of the dominant heritage.

Extinction on permanent alteration of servient heritage by superior force.

44. An easement is extinguished where the servient heritage is by superior force so permanently altered that the dominant owner can no longer enjoy such easement:

Provided that, where a way of necessity is destroyed by superior force, the dominant owner has a right to another way over the servient heritage; and the provisions of section 14 apply to such way.

Illustrations.

(*a*) *A* grants to *B*, as the owner of a certain house, a right to fish in a river running through *A*'s land. The river changes its course permanently and runs through *C*'s land. *B*'s easement is extinguished.

(*b*) Access to a path over which *A* has a right of way is permanently cut off by an earthquake. *A*'s right is extinguished.

Extinction by destruction of either heritage.

45. An easement is extinguished when either the dominant or the servient heritage is completely destroyed.

Illustration.

A has a right of way over a road running along the foot of a sea-cliff. The road is washed away by a permanent encroachment of the sea. *A*'s easement is extinguished.

Extinction by unity of ownership.

46. An easement is extinguished when the same person becomes entitled to the absolute ownership of the whole of the dominant and servient heritages.

Illustrations.

(*a*) *A*, as the owner of a house, has a right of way over *B*'s field. *A* mortgages his house and *B* mortgages his field to *C*. Then *C* forecloses both mortgages and becomes thereby absolute owner of both house and field. The right of way is extinguished.

(*b*) The dominant owner acquires only part of the servient heritage the easement is not extinguished, except in the case illustrated in section 41.

(*c*) The servient owner acquires the dominant heritage in connection with a third person; the easement is not extinguished.

(Chapter V.—The Extinction, Suspension and Revival of Easements.)

(*d*) The separate owners of two separate dominant heritages jointly acquire the heritage which is servient to the two separate heritages; the easements are not extinguished.

(*e*) The joint owners of the dominant heritage jointly acquire the servient heritage; the easement is extinguished.

(*f*) *A* single right of way exists over two servient heritages for the beneficial enjoyment of a single dominant heritage. The dominant owner acquires only one of the servient heritages. The easement is not extinguished.

(*g*) *A* has a right of way over *B*'s road. *B* dedicates the road to the public. *A*'s right of way is not extinguished.

Extinction by non-enjoyment.

47. A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years.

A discontinuous easement is extinguished when, for a like period, it has not been enjoyed as such.

Such period shall be reckoned, in the case of a continuous easement, from the day on which its enjoyment was obstructed by the servient owner, or rendered impossible by the dominant owner; and, in the case of a discontinuous easement, from the day on which it was last enjoyed by any person as dominant owner:

Provided that, if, in the case of a discontinuous easement, the dominant owner, within such period, registers, under the Indian Registration Act, 1877[1], a declaration of his intention to retain such easement, it shall not be extinguished until a period of twenty years has elapsed from the date of the registration.

Central Act III of 1877.

Where an easement can be legally enjoyed only at a certain place, or at certain times, or between certain hours, or for a particular purpose, its enjoyment during the said period at another place, or at other times, or between other hours, or for another purpose, does not prevent its extinction under this section.

The circumstance that, during the said period, no one was in possession of the servient heritage, or that the easement could not be enjoyed, or that a right accessory thereto was enjoyed or that the dominant owner was not aware of its existence, or that he enjoyed it in ignorance of his right to do so, does not prevent its extinction under this section.

An easement is not extinguished under this section—

(*a*) where the cessation is in pursuance of a contract between the dominant and servient owners;

(*b*) where the dominant heritage is held in co-ownership, and one of the co-owners enjoys the easement within the said period; or

(*c*) where the easement is a necessary easement.

[1] Central Act III of 1877 was repealed and re-enacted by the Indian Registration Act, 1908 (Central Act XVI of 1908).

(Chapter V.—The Extinction, Suspension and Revival of Easements.)

Where several heritages are respectively subject to rights of way for the benefit of a single heritage, and the ways are continuous, such rights shall, for the purposes of this section, be deemed to be a single easement.

Illustration.

A has, as annexed to his house, rights of way from the high road thither over the heritages *X* and *Z* and the intervening heritage *Y*. Before the twenty years expire, *A* exercises his right of way over *X*. His rights of way over *Y* and *Z* are not extinguished.

Extinction of accessory rights.

48. When an easement is extinguished, the rights (if any) accessory thereto are also extinguished.

Illustration.

A has an easement to draw water from *B*'s well. As accessory thereto, he has a right of way over *B*'s land to and from the well. The easement to draw water is extinguished under section 47. The right of way is also extinguished.

Suspension of easement.

49. An easement is suspended when the dominant owner becomes entitled to possession of the servient heritage for a limited interest therein, or when the servient owner becomes entitled to possession of the dominant heritage for a limited interest therein.

Servient owner not entitled to require continuance.

50. The servient owner has no right to require that an easement be continued; and, notwithstanding the provisions of section 26, he is not entitled to compensation for damage caused to the servient heritage in consequence of the extinguishment or suspension of the easement, if the dominant owner has given to the servient owner such notice as will enable him, without unreasonable expense, to protect the servient heritage from such damage.

Compensation for damage caused by extinguishment or suspension.

Where such notice has not been given, the servient owner is entitled to compensation for damage caused to the servient heritage in consequence of such extinguishment or suspension.

Illustration.

A, in exercise of an easement, diverts to his canal the water of B's stream. The diversion continues for many years, and during that time the bed of the stream partly fills up. *A* then abandons his easement, and restores the stream to its ancient course. *B*'s land is consequently flooded. *B* sues *A* for compensation for the damage caused by the flooding. It is proved that *A* gave *B* a month's notice of his intention to abandon the easement, and that such notice was sufficient to enable *B*, without unreasonable expense, to have prevented the damage. The suit must be dismissed.

Revival of easements.

51. An easement extinguished under section 45 revives (*a*) when the destroyed heritage is, before twenty years have expired, restored by the deposit of alluvion; (*b*) when the destroyed heritage is a servient building and before twenty years have expired such building is rebuilt upon the same site; and (*c*) when the destroyed heritage is a dominant

(Chapter V.—The Extinction, Suspension and Revival of Easements. Chapter VI.—Licences.)

building and before twenty years have expired, such building is rebuilt upon the same site and in such a manner as not to impose a greater burden on the servient heritage.

An easement extinguished under section 46 revives when the grant or bequest by which the unity of ownership was produced is set aside by the decree of a competent Court. A necessary easement extinguished under the same section revives when the unity of ownership ceases from any other cause.

A suspended easement revives if the cause of suspension is removed before the right is extinguished under section 47.

Illustration.

A, as the absolute owner of field *Y*, has a right of way thither over *B*'s field *Z*. *A* obtains from *B* a lease of *Z* for twenty years. The easement is suspended so long as *A* remains lessee of *Z*. But when *A* assigns the lease to *C* or surrenders it to *B*, the right of way revives.

CHAPTER VI.

LICENCES.

"Licence" defined.

52. Where one person grants to another or to a definite number of other persons, a right to do, or continue to do, in or upon the immovable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a licence.

Who may grant licence.

53. A licence may be granted by any one in the circumstances and to the extent in and to which he may transfer his interests in the property affected by the licence.

Grant may be express or implied.

54. The grant of a licence may be express or implied from the conduct of the grantor, and an agreement which purports to create an easement, but is ineffectual for that purpose, may operate to create a licence.

Accessory licences annexed by law.

55. All licences necessary for the enjoyment of any interest, or the exercise of any right, are implied in the constitution of such interest or right. Such licences are called accessory licences.

Illustration.

A sells the trees growing on his land to *B*. *B* is entitled to go on the land and take away the trees.

Licence when transferable.

56. Unless a different intention is expressed or necessarily implied, a licence to attend a place of public entertainment may be transferred by the licensee; but, save as aforesaid, a licence cannot be transferred by the licensee or exercised by his servants or agents.

(Chapter VI.—Licences.)

Illustrations.

(*a*) *A* grants *B* a right to walk over *A*'s field whenever he pleases. The right is not annexed to any immovable property of *B*. The right cannot be transferred.

(*b*) The Government grant *B* a licence to erect and use temporary grain-sheds on Government land. In the absence of express provision to the contrary, *B*'s servants may enter on the land for the purpose of erecting sheds, erect the same, deposit grain therein and remove grain therefrom.

Grantor's duty to disclose defects.

57. The grantor of a licence is bound to disclose to the licensee any defect in the property affected by the licence, likely to be dangerous to the person or property of the licensee, of which the grantor is, and the licensee is not aware.

Grantor's duty not to render property unsafe.

58. The grantor of a licence is bound not to do anything likely to render the property affected by the licence dangerous to the person or property of the licensee.

Grantor's transferee not bound by licence.

59. When the grantor of the licence transfers the property affected thereby, the transferee is not as such bound by the licence.

Licence when revocable.

60. A licence may be revoked by the grantor, unless—

(*a*) it is coupled with a transfer of property and such transfer is in force.

(*b*) the licensee, acting upon the licence, has executed a work of a permanent character and incurred expenses in the execution.

Revocation express or implied.

61. The revocation of a licence may be express or implied.

Illustrations.

(*a*) *A*, the owner of a field, grants a licence to *B* to use a path across it. *A*, with intent to revoke the licence, locks a gate across the path. The licence is revoked.

(*b*) *A*, the owner of a field, grants a licence to *B* to stack hay on the field *A* lets or sells the field to *C*. The licence is revoked.

Licence when deemed revoked.

62. A licence is deemed to be revoked—

(*a*) when, from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the licence :

(*b*) when the licensee releases it, expressly or impliedly, to the grantor or his representative :

(*c*) where it has been granted for a limited period, or required on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled :

(*d*) where the property affected by the licence is destroyed or by superior force so permanently altered that the licensee can no longer exercise his right :

(*e*) where the licensee becomes entitled to the absolute ownership of the property affected by the licence :

(*f*) where the licence is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable :

(Chapter VI.—Licences.)

(*g*) where the licence is granted to the licensee as holding a particular office, employment or character, and such office, employment or character ceases to exist :

(*h*) where the licence totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee :

(*i*) in the case of an accessory licence, when the interest or right to which it is accessory ceases to exist.

Licensee's rights on revocation.

63. Where a licence is revoked, the licensee is entitled to a reasonable time to leave the property affected thereby and to remove any goods which he has been allowed to place on such property.

Licensee's rights on eviction.

64. Where a licence has been granted for a consideration and the licensee without any fault of his own, is evicted by the grantor before he has fully enjoyed, under the licence, the right for which he contracted, he is entitled to recover compensation from the grantor.

ACT No. XXI OF 1882.[1]

[THE MADRAS FOREST (VALIDATION) ACT, 1882.]

[*2nd November 1882.*]

An Act to remove doubts regarding the Madras Forest Act, 1882.

Madras Act V of 1882.

WHEREAS doubts have arisen whether the Madras Forest Act, 1882, is consistent with certain [2][Central Acts], and it is expedient to remove those doubts ; It is hereby enacted as follows :—

Central Acts not to affect the Madras Forest Act. Madras Act V of 1882.

1. No [3][Central Act passed before the commencement of the Constitution] shall affect, or shall be deemed to have at any time contained anything which would affect the Madras Forest Act, 1882.

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[1] Short title "The Madras Forest (Validation) Act, 1882" was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

For Statement of Objects and Reasons, *see Gazette of India*, 1882, Pt. V, p. 947 ; for Proceedings in Council, *see ibid*, 1882, Supplement, pp. 1463, 1493 and 1701.

[2] The words "Central Legislature" were substituted for the words "Governor-General in Council" by the Adaptation Order of 1937 and the word "Central Acts" were substituted for "Acts of the Central Legislature" by the Adaptation Order of 1950.

[3] The words "Central Legislature" were substituted for the words "Governor-General in Council" by the Adaptation Order of 1937 and the words "Central Act passed before the commencement of the Constitution" were substituted for "enactment of the Central Legislature" by the Adaptation Order of 1950.

ACT No. I OF 1883.

[THE CENTRAL PROVINCES LOCAL SELF-GOVERNMENT ACT, 1883.]

[*12th January 1883.*]

* * * * * *

Confirmation and recovery of existing rates.

[1]**41.** (1) All rates for the maintenance of roads, schools or the district post for the payment of which provision [2][is made in any settlement record] shall be deemed to have been legally imposed, and shall be recoverable as if they were arrears of land revenue payable directly to Government and due on the land in respect of which they are payable.

* * * * * *

ACT No. II OF 1884.[3]

[THE MADRAS PARTITION-DEEDS (VALIDATION) ACT, 1884.]

[*18th January 1884.*]

An Act to give effect to certain unregistered instruments of partition relating to immovable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby.

WHEREAS it is expedient to give effect to certain unregistered instruments of partition relating to immovable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby; It is hereby enacted as follows :—

Certain unregistered instruments of partition to have same force and effect as registered instruments.

1. Notwithstanding anything contained in any Act to the contrary, instruments of partition relating to immovable property in the Madras Presidency, which have been executed before the passing of this Act and have not been registered, shall have the same force and effect as if they had been registered, under the law in force at the time when they were executed :

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[1] Section 41, sub-section (1) of this Act is in force in the taluqs of Nugur, Albaka and Cherla, which ceased to be under the administration of the Chief Commissioner of the Central Provinces and became subject to the Government of Madras in pursuance of Proclamation No. 545, dated the 15th April 1909, issued by the Governor-General in Council under s. 4 of the Government of India Act, 1865, with effect from the 1st July 1909, *see* Regulation I of 1909, s. 3.

[2] The words in square brackets were substituted for the words "has been made in any settlement record previous to the passing of this Act" by Central Act XVI of 1889, s. 41.

[3] Short title "The Madras Partition-deeds (Validation) Act, 1884" was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

For Statement of Objects and Reasons, *see Gazette of India*, 1883, Pt. V, p. 662; for Proceedings in Council, *see ibid*, 1883, Supplement, p. 2095 and *ibid*, 1884, Supplement, p. 164.

Provided that this Act shall not—

(*a*) apply to any unregistered instrument of partition which has been superseded by an instrument of partition duly registered, or

(*b*) affect the title of a transferee for value in good faith of property, whether he has or has not had notice of an unregistered instrument of partition relating to that property, or

(*c*) affect any right established by a final decree of a Court of competent jurisdiction.

Compensation to person deprived of right owing to transfer under section 1, clause (*b*).

2. When any person to whom any right has accrued on the partition, or any person claiming under that person, has, by any such transfer as is mentioned in section 1, clause (*b*), been deprived of any right created by the partition, he shall be entitled to recover compensation in damages from any sharer who has directly or indirectly caused such privation of right, or, if the sharer is dead, from his assets :

Provided that suit be brought * * * *[1] within three years from the date of the transfer if the transfer is made after this Act comes into force.

[1] The words " within three years after the date on which this Act comes into force or " were repealed by the Repealing and Amending Act, 1891 (Central Act XII of 1891).

THE MADRAS CITY CIVIL COURT ACT, 1892.

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3-A Power of State Government to enhance the jurisdiction of the City Court.

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5 Judge of City Court to be Judge of Small Cause Court.

6 Powers of Judges when City Court consists of more than one Judge.

7 Ministerial Officers.

8 Questions arising in suits, etc., under Act to be dealt with according to law administered by High Court.

9 Valuation of immovable property for jurisdictional purposes.

10 Process-fees.

11 Appointment of Receivers.

12 [Repealed.]

13 Repayment of half fees on settlement before hearing.

14 Allowance for fees paid in City Court in cases removed to High Court.

15 Appeals.

16 Saving of original civil jurisdiction of High Court.

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18 Holidays and vacations.

ACT No. VII OF 1892.[1]

[THE MADRAS CITY CIVIL COURT ACT, 1892.][2]

[*12th August 1892.*]

An Act to establish an additional Civil Court for the City of Madras.

WHEREAS it is expedient to establish an additional Civil Court for the City of Madras; It is hereby enacted as follows :—

Title.

1. (1) This Act may be called the Madras City Civil Court Act, 1892.

* * * * * [3]

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "City Court" means the Court established under the next following section ;

(2) "City of Madras" means the area within the local limits for the time being of the ordinary original civil jurisdiction of the High Court ;

(3) "High Court" means the High Court of Judicature at Madras ; and

(4) "Small Cause Court" means the Court of Small Causes of Madras.

Constitution of the City Court.

3. The [4][State Government] may, by notification in the Official Gazette, establish a Court, to be called the Madras City Civil Court, with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding two thousand five hundred rupees in value and arising within the City of Madras, except suits or proceedings which are cognizable—

(*a*) by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty, or as a Court having testamentary, intestate or matrimonial jurisdiction, or

(*b*) by the Court for the relief of insolvent debtors, or

(*c*) by the Small Cause Court.

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[1] For Statement of Objects and Reasons, *see Gazette of India*, 1891, Pt. V, p. 144 ; for Preliminary Report of the Select Committee, *see Gazette of India*, 1892, Pt. V, p. 9 ; for Further Report, *see ibid*, p. 49 ; and for the Final Report, *see ibid*, p. 59 ; for Proceedings in Council, *see ibid*, 1891, Pt. VI, p. 119 ; and *ibid*, 1892, Pt. VI, pp. 6, 13, 20, 23, 37, 57 and 61.

[2] *See* also the Madras City Civil Court and Presidency Small Cause Courts (Amendment) Act, 1916 (Madras Act V of 1916).

[3] The word "and" and sub-section (2) were repealed by the Repealing and Amending Act, 1914 (Central Act XVII of 1914), s. 3 and Sch. II.

[4] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Power of State Government to enhance the jurisdiction of the City Court.

[1][3-A. Subject to the exceptions specified in section 3 the [2][State Government] may, by notification in the Official Gazette, invest the City Court with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature arising within the City of Madras and of such value not exceeding ten thousand rupees as may be specified in the notification.]

Number of Judges.

[3][4. The number of Judges to be appointed to the City Court shall be such as may from time to time be fixed by the State Government by notification in the Official Gazette.]

Judge of City Court to be Judge of Small Cause Court.

5. (1) Every person appointed a Judge of the City Court shall be, by virtue of his office, a Judge of the Small Cause Court with respect to cases cognizable by that Court.

(2) Every such Judge shall be liable to perform any duties of a Judge of the Small Cause Court which the Chief Justice of the High Court may require him to perform.

Powers of Judges when City Court consists of more than one Judge.

6. When the City Court consists of more than one Judge—

(*a*) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force ;

[4][(*b*) one of the Judges shall be appointed the Principal Judge ; and]

(*c*) the Principal Judge may from time to time make such arrangements as he may think fit for the distribution of the business of the Court among the various Judges thereof.

Ministerial Officers.

[5][7. (1) There shall be appointed to the City Court as many clerks, bailiffs and other Ministerial Officers as the State Government may from time to time consider necessary.

(2) The clerks, bailiffs and other ministerial officers so appointed shall exercise such powers and discharge such duties of a ministerial nature as the Judge or, when the Court consists of more than one Judge, the Principal Judge, may from time to time direct.]

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[1] Section 3-A was inserted by section 2 of the Madras City Civil Court (Amendment) Act, 1934 (Madras Act I of 1935).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This section was substituted for the original section 4 by the Adaptation Order of 1937.

[4] This clause was substituted for the original clause (*b*) by *ibid.*

[5] This section was substituted for the original section 7 by *ibid.*

Questions arising in suits, etc., under Act to be dealt with according to law administered by High Court.

8. All questions which arise in suits or other proceedings under this Act in the City Court shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

Valuation of immovable property for jurisdictional purposes.

9. When the subject-matter of any suit or other proceeding is land or a house or a garden, its value for the purposes of the jurisdiction conferred on the City Court by this Act shall, subject to the other provisions of this Act, be fixed in manner provided by the Court-fees Act, 1870, section 7, clause v.

Central Act VII of 1870.

Process-fees.

10. Fees[1] chargeable for serving or executing processes issued by the City Court, or served or executed under its direction or control, shall be such as the High Court may prescribe with the approval of the [2][State Government of Madras] * * * * *[3].

Central Act XIV of 1882.

Appointment of Receivers.

11. The powers conferred by Chapter XXXVI of the Code of Civil Procedure[4] on High Courts and District Courts as to the appointment of Receivers, may be exercised by the City Court or any Judge thereof.

12. [Amendment of Central Act XV of 1882, section 31]. Repealed by the Repealing Act, 1938 (Central Act I of 1938).

Repayment of half fees on settlement before hearing.

13. Whenever any suit or proceeding in the City Court is settled by agreement of the parties before issues have been settled or any evidence recorded, half the amount of the institution fees paid by the plaintiff shall be repaid to him by the Court.

Central Act XIV of 1882.

Allowance for fees paid in City Court in cases removed to High Court.

14. When, under section 13 of the Letters Patent for the High Court, dated the twenty-eighth day of December, 1865, or under section 25 of the Code of Civil Procedure,[4] the High Court has removed for trial by itself any suit from the City Court, fees on the scale for the time being in force in the High Court as a Court of ordinary original civil jurisdiction shall be payable in that Court in respect of the suit and proceedings therein :

Provided that, in the levy of any such fees which, according to the practice of the Court, are credited to the Government, credit shall be given to the plaintiff in the suit for any fee

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[1] For fees prescribed for serving and executing processes issued by the Madras City Civil Court, *see Fort St. George Gazette*, 1892, Pt. I, p. 1553.

[2] The words "Provincial Government of Madras" were substituted for the words "Governor of Fort St. George in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] The words "and the sanction of the Governor-General in Council" were omitted by the Decentralization Act, 1914 (Central Act IV of 1914), s. 2 and Schedule.

[4] *See* now the Code of Civil Procedure, 1908 (Central Act V of 1908).

which in the City Court he has already paid under the Court-fees Act, 1870, on the plaint. Central Act VII of 1870.

Appeals.

15. (1) The Court authorized to hear appeals from the City Court shall be the High Court.

(2) The period of limitation for an appeal from a decree or order of the City Court shall be the same as that provided by law for an appeal from a decree or order of the High Court in the exercise of its original jurisdiction.

Saving of original civil jurisdiction of High Court.

16. Nothing in this Act contained shall affect the original civil jurisdiction of the High Court :

Provided that—

(1) if any suit or other proceeding is instituted in the High Court which, in the opinion of the Judge who tries the same (whose opinion shall be final), ought to have been instituted in the City Court, no costs shall be allowed to a successful plaintiff and a successful defendant shall be allowed his costs [1][at the maximum admissible under the Madras High Court Fees Rules for suits set down for final disposal].

(2) in any suit or other proceeding pending at any time in the High Court, any Judge of such Court may, at any stage thereof make an order transferring the same to the City Court if in his opinion such suit or proceeding is within the jurisdiction of that Court and should be tried therein ;

(3) in any suit or other proceeding so transferred, the Court-fees Act, 1870, shall apply, credit being given for any fees levied in the High Court. Central Act VII of 1870.

Seal to be used.

17. The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the [2][State Government].

Holidays and vacations.

18. (1) The Judge of the City Court, or, when the Court consists of more than one Judge, the principal Judge, shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the Court, and shall submit the same for the approval of the [2][State Government].

(2) Such list, when it has received such approval, shall be published in the Official Gazette, and the said holidays and vacations shall be observed accordingly.

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[1] These words were substituted for the words "as between attorney and client", by section 2 of the Madras City Civil Court and Presidency Small Cause Courts (Amendment) Act, 1945 (Madras Act I of 1945). This was permanently re-enacted by section 2 of and the First Schedule to the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

THE CENTRAL PROVINCES TENANCY ACT, 1898.

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(Chapter I.—Preliminary.)

ACT No. XI OF 1898.[1]

[THE CENTRAL PROVINCES TENANCY ACT, 1898.]

[*21st October 1898.*]

An Act to consolidate and amend the Law relating to Agricultural Tenancies in the Central Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to agricultural tenancies in the Central Provinces; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Central Provinces Tenancy Act, 1898.

(2) It extends to all the [2] territories [3][. . .] administered by the Chief Commissioner of the Central Provinces; and

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) the expressions "agricultural year," "màlik-màkbuzà," "sír-land," "survey-number," "record-of-rights" and "village" have the meanings assigned to them, respectively, in the Central Provinces Land-revenue Act, 1881, as from time to time amended: Central Act XVIII of 1881.

(2) "arrear" means an instalment or part of an instalment of rent which is not paid on or before the date on which it is payable :

(3) "holding" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions :

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[1] For Statement of Objects and Reasons, *see Gazette of India*, 1897, Pt. V, p. 195; for Report of the Select Committee, *see ibid*, 1898, Pt. V, p. 313, and for Proceedings in Council, *see ibid*, 1897, Pt. VI, p. 224; 1898, Pt. VI, pp. 369 and 373.

[2] The Act with certain modifications is in force in the taluqs of Nugur, Albaka and Cherla, which ceased to be under the administration of the Chief Commissioner of the Central Provinces and became subject to the Government of Madras in pursuance of Proclamation No. 545, dated the 15th April 1909, issued by the Governor-General in Council under s. 4 of the Government of India Act, 1865, with effect from 1st July 1909; *see* Regulation I of 1909, s. 3, *infra*.

[3] The words "for the time being" were omitted by the Adaptation Order of 1937.

(4) "improvement" means, with reference to a holding, any work which adds to the letting-value of the holding, which is suitable to the holding and consistent with the purpose for which it was let, and which, if not executed on the holding, is either executed directly for its benefit, or is, after execution, made directly beneficial to it.

Explanation I.—It includes the reclaiming, enclosing or clearing of lands for agricultural purposes; but it does not include such embankments, temporary wells and water-channels as are made by tenants in the ordinary course of agriculture; and no work executed by the tenant of a holding is an improvement if it substantially diminishes the value of any other part of the estate of his landlord.

Explanation II.—A work which benefits several holdings may be deemed to be, with respect to each of them, an improvement:

(5) "land" means land which is let or occupied for agricultural purposes or for purposes subservient to agriculture, and includes the sites of buildings appurtenant to such land:

(6) "landlord" means the person of whom a tenant holds land, and to whom the tenant is, or, but for special contract, would be, liable to pay rent for that land:

(7) "pay," "payable" and "payment," used with reference to rent, include "deliver," "deliverable" and "delivery":

(8) "rent" means whatever is paid, delivered or rendered, in money, kind or service, by a tenant on account of the use or occupation of land let to him:

(9) "Revenue-officer" and "Settlement-officer" in any provision of this Act, mean, respectively, such Revenue-officer or Settlement-officer appointed under the Central Provinces Land-revenue Act, 1881, as from time to time amended, as the [1] [State Government] may, by notification in the [2] [Official Gazette], direct to discharge the functions of a Revenue-officer or Settlement-officer (as the case may be) under that provision: and

Central Act XVIII of 1881.

(10) "tenant" means a person who holds land of another person, and is, or but for a special contract, would be, liable to pay rent for that land to that other person. But it does not include a farmer, mortgagee or thikàdàr of proprietary rights:

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "local official Gazette" by the Adaptation Order of 1937.

Explanation I.—An inferior proprietor is not, as such, a tenant :

Explanation II.—The holder of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpúr District, is a tenant of the farmer or gaontia for the time being.

CHAPTER II.

OF TENANTS GENERALLY.

A.—Classification of Tenants.

Classes of tenants.

3. There shall be five classes of tenants, namely :—

(1) absolute occupancy-tenants ;
(2) occupancy-tenants ;
(3) village-service-tenants ;
(4) sub-tenants ; and
(5) ordinary tenants.

B.—Provisions relating to rent.

Presumption as to amount of rent payable.

4. In all suits and proceedings between landlord and tenant, the rent payable for any agricultural year by a tenant in respect of his holding shall be presumed, until the contrary is proved, to be the rent payable in respect of the holding in the agricultural year immediately preceding that year.

Date from which order fixing rent operates.

5. Save as provided in sections 66 and 78, an order fixing, altering or commuting the rent of a holding on an application under this Act may, as the officer making the order thinks fit, take effect from the commencement of the agricultural year next following the date of the application, or from any subsequent day, or, if it is made on the ground of increase, diminution or deterioration, of the holding, from the date of that increase, diminution, or deterioration or from any subsequent day.

Time for payment of rents.

6. Rent shall be payable in such instalments and on such dates as the [1][State Government] may, by notification in the [2][Official Gazette], prescribe, and, in the absence of any such notification applicable to the case, according to the contract between the parties, or, where there is no such contract, according to local usage.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "local official Gazette" by the Adaptation Order of 1937.

(Chapter II.—Of Tenants generally.)

Rents payable to a number of landlords.

7. When two or more persons are landlords of a tenant in respect of the same holding, the tenant, subject to any rule which the [1][State Government] may, by notification in the [2][Official Gazette], make in this behalf, and to any contract between the parties, shall not be bound to pay part of the rent of his holding to one of those persons and part to another or others; and, subject as aforesaid, those persons shall, if the tenant so desires, appoint one of their number or some other person to receive the rent.

Power to deposit rent in certain cases with Revenue-officer.

8. (*a*) When a landlord refuses to accept any instalment of rent payable in money when tendered to him by a tenant,

(*b*) when a tenant, in the case mentioned in section 7, desires the appointment of a person to receive rent payable in money and the appointment is not made within a reasonable time, and,

(*c*) when a tenant in any case is doubtful as to the person entitled to receive rent payable in money,

the tenant may apply to a Revenue-officer for permission to deposit in his Court the amount of rent which he believes to be due; and that officer shall receive the deposit, if it appears to him, after examining the applicant, that he had reasonable grounds for making the application, and that it was made in good faith, and if the applicant pays the fee (if any) chargeable for the issue of the notice next hereinafter referred to.

Effect of depositing rent.

9. (1) When a deposit has been so received it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

(2) The officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims, or is entitled to, the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(3) No suit or other proceeding shall be instituted against the [3][Government], or against any [4][servant of the

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[2] These words were substituted for the words "local official Gazette" by the Adaptation Order of 1937.

[3] The word "Crown" was substituted for the words "Secretary of State for India in Council" by the Adaptation Order of 1937 and the word "Government" was substituted for the word "Crown" by the Adaptation Order of 1950.

[4] The words "servant of the Crown" were substituted for the words "officer of the Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

Government], in respect of anything done by a Revenue-officer under this section; but nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same from a person to whom it has been paid by a Revenue-officer.

Penalty for levy of anything in excess of rent by landlord.

10. A landlord who, except under any special enactment for the time being in force, levies from a tenant anything in excess of the rent legally payable shall, on the application of the tenant, be liable under the order of a Revenue-officer, not below the class of Deputy Commissioner, to pay as penalty such sum as the Revenue-officer thinks fit, not exceeding five hundred rupees, or, when double the amount or value of what is so levied exceeds five hundred rupees, not exceeding double that amount or value. Such sum shall be awarded to the tenant as compensation.

Presumption as to payments by tenant to landlord.

11. Where rent is due, every payment by a tenant to his landlord shall, unless the tenant otherwise agrees, be presumed to be a payment on account of rent.

Penalty for refusing receipt or giving defective receipt.

12. A landlord who refuses to grant a receipt for rent paid by a tenant, or grants a receipt but refuses or neglects to specify therein the holding, and the period or crop, in respect of which the payment is made, or the amount paid, shall, on the application of the tenant, be liable, under the order of a Revenue-officer, to pay as penalty such sum, not exceeding double the amount or value of the rent so paid, as the Revenue-officer thinks fit. Such sum shall be awarded to the tenant as compensation.

Enhancement of rent when productive power of holding increased by landlord.

13. Notwithstanding anything in the record-of-rights, but subject to any contract in writing between the parties, the rent payable in money by any tenant may, on the application of his landlord, be enhanced by a Revenue-officer on the ground that an improvement has been made since the present rent was fixed and in accordance with this Act by or at the expense of the landlord whereby the productive power of the holding has been increased.

Reduction of rent when effect of improvement ceases.

14. When the rent of any tenant has been enhanced under section 13 or was fixed at the current settlement with regard to an improvement made by or at the expense of the landlord, a Revenue-officer may, at any time, on the application of the tenant modify or cancel the order for enhancement, or reduce such rent, on the ground that the effect of the improvement in increasing the productive power of the holding has diminished or ceased since the date of the order for enhancement or of the last modification of such order made under this section, or since the rent was fixed by the Settlement-officer, as the case may be.

(Chapter II.—Of Tenants generally.)

Power to alter rent when holding is increased, diminished or deteriorated.

15. When the area of a holding the rent of which is payable in money is increased or diminished by the encroachment of the tenant or the landlord, or by fluvial action or otherwise, or the soil of a holding is, without the fault of the tenant, permanently deteriorated by a deposit of sand or by any other calamity, a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to that increase, diminution or deterioration.

Power to alter rent in case of new assessment.

16. When a landlord grants a lease, or makes any other contract fixing the rent of any holding, and, while the lease or contract is in force—

(*a*) land-revenue is for the first time made payable in respect of the holding, or

(*b*) land-revenue having been previously payable in respect of it, the revenue payable when the lease or other contract was granted or made is increased or diminished,

a Revenue-officer may, notwithstanding anything in the record-of-rights or any contract between the parties, by order, on the application of the landlord or of the tenant, alter the rent with reference to the revenue.

Commutation of rent payable in kind.

17. (1) In all cases in which a tenant, other than an ordinary tenant whose holding consists entirely of sīr-land, or than a sub-tenant, pays rent for a holding in kind, or on the estimated value of a portion of the crop or at rates varying with the crop, or partly in one of those ways and partly in another or others, the landlord or tenant may, notwithstanding anything in the record-of-rights or any contract between the parties, other than a contract whereby waste-land is let for the purpose of reclamation, apply during the progress of a settlement to a Settlement-officer, or at any other time to a Revenue-officer, to commute the rent to a fixed money-rent.

(2) On the receipt of the application, the officer, after giving notice of the application to the other party and hearing him, if he appears, may fix the sum to be paid as money-rent, and may, for reasons to be recorded by him in writing, order that the tenant shall, in lieu of paying his rent in kind, or otherwise as aforesaid, pay the sum so fixed.

(3) If the application is opposed, the officer may, for reasons to be recorded by him in writing, refuse to grant the same.

Remission and suspension of rent consequent on like treatment of land revenue.

18. (1) Whenever from any cause the payment of the whole or any part of the land-revenue payable in respect of any land is remitted or suspended, a Revenue-officer may, by general or special order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in

respect of the land as the land-revenue of which the payment has been remitted or suspended bears to the whole of the land-revenue payable in respect of the land, and may distribute the amount so remitted or suspended amongst the tenants holding such land as may seem to him to be equitable, having regard to the effect on their holdings of the cause which has led to the remission or suspension of the land-revenue :

Provided that, where the rent is taken by actual division of the produce, no portion of it shall be suspended under this section.

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) No suit shall lie for the recovery of any rent of which the payment has been remitted, or, during the period of suspension, of any rent of which the payment has been suspended, and, so long as a suit does not lie, such rent shall not be legally payable within the meaning of section 10.

(4) Where the payment of rent has been suspended, the period of suspension shall be excluded in the computation of the period of limitation prescribed for bringing a suit for the recovery of the rent.

(5) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, as far as may be, to land of which the land-revenue has been wholly or in part released, compounded for or redeemed, in any case in which, if the land-revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue-officer, have been remitted or suspended.

(6) The provisions of this section relating to rent shall apply also, as far as may be, to revenue payable by málik-màkbuzàs, to revenue and màlikànà payable by inferior proprietors, and to thika-jamàs payable by thikàdàrs of proprietary rights, and the provisions of section 10 apply in cases where revenue, màlikànà or thika-jamà has been collected in contravèntion of this section.

C.—Commissions for dividing or estimating Crops.

Commission for dividing or estimating crops.

19. Whenever rent is taken by division of the produce, or by estimate or appraisement of the crop, if either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division, estimate or appraisement, or if there is a dispute about the division of the produce or the quantity or value of the crop, a Revenue-officer may, on the application of either party, issue a commission to such person as the officer thinks fit, directing him to divide, estimate or appraise the crop.

(Chapter II.—Of Tenants generally.)

Appointment of assessors, etc.

20. (1) When a Revenue-officer appoints a Commissioner for any of the purposes mentioned in section 19, the officer may, in his discretion, direct the Commissioner to associate with himself any other persons as assessors, and may give him instructions regarding the number, qualifications and mode of selecting those assessors (if any), and the procedure to be followed in making the division, estimate or appraisement.

(2) The Commissioner so appointed shall make the division, estimate or appraisement in accordance with those instructions.

Remedy for error in division.

21. (1) If in any division under the foregoing provisions either party receives less than the share to which he is entitled he may, within three months from the date on which the division is completed, institute a suit against the other party to recover the value of the additional portion of the crop due to him at the price which prevailed on that date.

(2) If no such suit is instituted within the said period of three months, the division shall for all purposes be deemed as between the parties thereto to have been rightly made.

Procedure when crop has been estimated or appraised.

22. (1) When a crop has been estimated or appraised under the foregoing provisions, the estimate or appraisement shall be reduced to writing and signed by the Commissioner making the same, and shall be submitted to the Revenue-officer by whom the commission was issued.

(2) The Revenue-officer shall consider the Commissioner's report, and, after such hearing and inquiry (if any) as he may think necessary, shall pass an order thereon either confirming or varying the estimate or appraisement, and that order shall be final.

D.—Of the Landlord's Lien on the Produce of a Holding.

Definition of "produce of a holding."

23. In sections 24 to 30 (both inclusive) the produce of a holding means—

(*a*) crops and other products of the earth standing or ungathered on the holding;

(*b*) crops and other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing-ground, or are stored, by a tenant of the land on which they have been grown, within the village in which the holding is situate or the tenant resides.

Power of landlord, by notice, to prohibit removal of produce.

24. Where an arrear of rent is due in respect of a holding, the landlord may, by notice served as hereinafter provided, prohibit the removal of the produce of the holding :

Provided that—

first, such a prohibition shall not be made on account of an arrear which has been due for a longer period than one year, or in respect of any produce which is under attachment by order of any Civil Court; and

secondly, such a prohibition shall not be made more than once in respect of the same produce on account of the same arrear.

Effect of instituting suit for rent while notice is in force.

25. If, while the notice is in force, the landlord institutes a suit for the recovery of the rent, the notice shall continue in force until the Court trying the suit otherwise directs; and, if the landlord obtains a decree in the suit, the amount of that decree shall be the first charge upon the produce.

Right to reap, etc., produce not affected.

26. A notice under section 24 shall not prevent any person from reaping, gathering or storing any produce, or doing any other act necessary for its due preservation.

Contents and service of notice; time for which it remains in force.

27. (1) Every notice under section 24 shall be in writing, and shall specify the amount of the arrear claimed, the period for which, and the holding in respect of which, it is claimed, and, when an amount in excess of the rent payable by the tenant in the last preceding agricultural year is claimed, the decree, order or agreement, as the case may be, for the payment of that amount.

(2) The notice shall be served on the person in charge of the produce, and shall, subject to the provisions of section 25, remain in force until the expiration of thirty-five days from the date of service of the notice, or, if the rent specified in the notice is paid previously to the expiration of such thirty-five days, until such rent is paid.

Procedure when produce is under attachment.

28. (1) If the produce of the holding on which the arrear is due is under attachment by order of a Civil Court, the landlord may apply to the Court to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

(*a*) any rent which has fallen due to him in respect of the holding within the year immediately preceding the application; and

(*b*) the instalment of rent falling due next after the time at which in the ordinary course of agriculture the produce would be harvested.

And the Court, if on inquiry it finds the landlord's claim to the whole or any part of the rent to be proved, shall sell the produce or such portion thereof as it may deem necessary, and shall apply the proceeds of the sale in the first instance, to satisfy the claim.

(2) The finding of a Court on an inquiry under this section shall have the force of a decision in a suit between the parties.

(Chapter II.—Of Tenants generally.)

Conflict between rights of superior and inferior landlord.

29. Where land is sublet and any conflict arises under sections 24 to 28 (both inclusive) between the rights of a superior and of an inferior landlord, the right of the superior landlord shall prevail.

Penalty for illegal distraint by landlord, and for illegal removal of produce.

30. (1) Any landlord of a holding who distrains or attempts to distrain the produce of the holding, or prevents or attempts to prevent, otherwise than in accordance with this Act, any person from reaping, gathering, storing, removing or otherwise dealing with any produce of the holding, and,

where a notice in respect of the produce of a holding has been served under section 27 and is in force, any person who, knowing or having reason to believe that the notice is in force, removes, attempts to remove or abets the removal of the produce, except for any of the purposes mentioned in section 26 shall, on the application of either landlord or tenant, be liable under the order of a Revenue-officer to fine which may extend to five hundred rupees.

Central Act V of 1898.

(2) Nothing in this section, and, except as provided in section 546 of the Code of Criminal Procedure, 1898, no proceeding under this section shall affect the right of any person to recover compensation in a civil suit.

E.—Of Improvements and Compensation therefor.

Right to make improvements.

31. (1) In respect of the holding of an absolute occupancy-tenant or occupancy-tenant, or of the holding of an ordinary tenant which does not consist entirely of sír-land, the tenant shall be entitled to make improvements.

(2) If the landlord of any such holding as is referred to in sub-section (1) desires that any improvement be made in respect of the holding he may deliver, or cause to be delivered, to the tenant a request in writing calling upon him to make the improvement within a reasonable time, and, if the tenant is unable or neglects to comply with that request may, subject to such rules of procedure as the [1] [State Government] may, by notification in the [2] [Official Gazette], prescribe in this behalf, make the improvement himself.

(3) In respect of the holding of an ordinary tenant, which consists entirely of sír-land, the landlord shall be entitled to make improvements.

Liability to pay to tenant on ejectment compensation for improvements.

32. (1) If a tenant, or the person under whom he claims, has made an improvement in respect of his holding in accordance with this Act, or with the landlord's consent otherwise

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[2] These words were substituted for the words "local official Gazette" by the Adaptation Order of 1937.

than in accordance with this Act, he shall not be ejected until he has received compensation for the improvement, unless the improvement was begun by him after the institution of the proceedings which resulted in the decree or order for his ejectment.

(2) A Civil Court making a decree for the ejectment of a tenant, or a Revenue-officer ordering ejectment in execution of a decree for arrears or otherwise, shall determine the amount of compensation (if any) due to him under this section, and shall stay execution until the landlord deposits the amount less any arrears of rent or costs that have been ascertained by the proceedings for such ejectment to be due to him from the tenant.

(3) No compensation shall be claimable under this section for an improvement where the tenant has made the improvement in pursuance of a contract binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and has obtained that advantage.

(4) Improvements made by a tenant before the commencement of this Act, in lands other than sír-land, shall be deemed to have been made in accordance with this Act, unless it is shown that the landlord forbade the tenant to make the improvement, and was ready to make it himself.

Assessment of compensation.

33. (1) The [1] [State Government] may, by notification in the [2] [Official Gazette] make rules requiring the Civil Court to associate with itself, for the purpose of estimating the compensation to be awarded under section 32 for an improvement, such number of assessors as the [1] [State Government] thinks fit, and determining the qualifications of those assessors and the mode of selecting them.

(2) In estimating the compensation to be awarded under section 32 for an improvement, regard shall be had—

(*a*) to the amount by which the letting-value or the produce, of the holding, or the value of that produce, is increased by the improvement;

(*b*) to the labour and capital required for the making of such an improvement; and

(*c*) to any reduction or remission of rent or other advantage given by the landlord to the tenant in consideration of the improvement.

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[2] These words were substituted for the words "local official Gazette" by the Adaptation Order of 1937.

(3) When the amount of the compensation has been assessed, the landlord and tenant may, if they think fit, agree that, instead of being paid wholly in money, it shall be made wholly or partly in some other way.

Avoidance of provisions barring right to make, or be compensated for, improvements.

34. An entry in the record-of-rights of any village or a stipulation in a contract providing—

(*a*) that a landlord shall be entitled to prevent a tenant from making, or to eject him for making, such improvements, on his holding as he is entitled to make under this Act, or

(*b*) that a tenant ejected from his holding shall not be entitled to compensation for improvements in any case in which he would, under this Act, be entitled to such compensation, shall be void.

Miscellaneous.

Surrender of holdings.

35. (1) Any tenant not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding :

Provided that, notwithstanding such surrender, the tenant shall continue to be liable for the agricultural year next following the date of the surrender for the rent of the holding, unless he gives to his landlord, at least thirty days before he surrenders, notice of his intention to surrender.

(2) In the following cases the Court shall presume that notice was duly given as required by the proviso to sub-section (1), that is to say :—

(*a*) if the tenant takes a new holding in the same village from the same landlord during the agricultural year next following the surrender ;

(*b*) if the tenant ceases, at least thirty days before the end of the agricultural year at the end of which the surrender is made, to reside in the village in which the surrendered holding is situate ; and

(*c*) if the landlord himself, at any time during the agricultural year next following the surrender, cultivates or lets to another tenant the holding or any part thereof.

(3) A tenant of a survey-number in a village let in farm by the Government, or held by a gaontia in the Sambalpúr district, shall be deemed to have surrendered his holding if he refuses to agree to the rent fixed under this Act for the holding, but shall not continue liable under sub-section (1) for the rent of his holding.

(4) Any tenant other than an absolute occupancy-tenant who leaves his holding uncultivated and the rent of it unpaid for a period of two years shall, at the expiration of that period, be deemed to have surrendered the holding :

Provided that, in reckoning that period, any time during which, owing to an inundation or any other accident to the land beyond the tenant's control, it may have been impossible to cultivate the land shall be excluded.

Surrender of occupancy-tenant's holding.

36. (1) If an occupancy-tenant surrenders his holding under section 35, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs may, on application to a Revenue-officer, made at any time within two years after the date of the surrender, be placed in possession of the holding, subject, so far as the Revenue-officer may, in accordance with rules made by the [1] [State Government] determine, to his acceptance of the liabilities of the surrendering tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(2) As among several persons so entitled and desirous of being placed in possession of the holding the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the holding if the tenant had died.

(3) When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *primâ facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the surrender to appear before him on a date to be fixed ; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desired to be placed in possession is first entitled to be so placed.

(4) Sub-sections (1), (2) and (3) shall not apply in cases where, subject to any rules made by the [1] [State Government] in this behalf, a Revenue-officer has decided, after an inquiry made on the application of either landlord or tenant that the surrender is *bonâ fide* and has not been made with the object of evading the provisions of section 45 or section 46.

Tenant taking thikâ or farm.

37. When a person, at the time of taking a thíká or farm is a tenant of any land comprised therein, his interest as tenant shall not be affected by reason only of his taking the thíká or farm.

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[1]The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(Chapter II.—Of Tenants generally. Chapter III.—Of Absolute Occupancy-tenants.)

Provisions regarding tenant right not applicable to tenant of land in reserved forests.

38. Nothing in this Act regarding the rights of an absolute occupancy-tenant, an occupancy-tenant or an ordinary tenant shall be deemed to apply to the tenant of any land situate within the limits of any forest-land or waste-land which has been declared to be a reserved forest under the Indian Forest Act, 1878.[1]

CHAPTER III.

OF ABSOLUTE OCCUPANCY-TENANTS.

Definition of "absolute occupancy-tenant."

39. Every person who, at the commencement of this Act, is the tenant of any holding in respect of which he, or a person, whose rights he has acquired, had been recorded in any record-of-rights made before the first day of January, 1884, as an "absolute occupancy-raiyat," or in terms equivalent thereto, shall, unless he has parted with his rights, be deemed to be an absolute occupancy-tenant of that holding.

Rents fixed for period of settlement.

40. (1) The rent of the holding of every absolute occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised, and the rent so fixed shall not be altered during the currency of the settlement, except under the provisions of section 13, section 14, section 15 or section 17.

(2) The rent payable by any such tenant in respect of his holding at the commencement of this Act shall be deemed to have been fixed at the current settlement of the area in which his holding is comprised.

Right heritable and transferable after notice to landlord, who may claim to purchase.

41. (1) The right of an absolute occupancy-tenant in his holding shall on his death devolve as if it were land, and shall be transferable subject to the conditions contained in this section.

(2) If an absolute occupancy-tenant intends to transfer any right in his holding by sale or gift, or by mortgaging the same for a sum which, together with the interest payable thereon during the five years immediately succeeding the mortgage and the previous sums (if any) secured by mortgage of it, would exceed eight times the annual rent of the holding, or by sub-letting the same in consideration of a fine or premium exceeding five times that rent, he shall give to his landlord a written notice of his intention, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is given.

[1] The Act has been repealed. *See* the Indian Forest Act, 1927 (Central Act XVI of 1927).

(3) If the intended transfer is by sale or gift, the landlord may, within the said period of one month—

(*a*) claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix ; or

(*b*) permit the sale or gift, in which case he shall be entitled to a sum equal to the rent for one year, and that sum shall be a first charge on the holding.

(4) If the intended transfer is by mortgage or sub-lease the landlord may, within the said period of one month, claim to purchase the absolute occupancy-right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(5) When the right of an absolute occupancy-tenant in his holding is sold or is foreclosed by order of a Civil Court in execution of a decree other than a decree obtained by his landlord, the landlord shall have the same right of pre-emption as is given in the case of a sale by clause (*a*) of sub-section (3).

(6) When an application is made to a Revenue-officer under this section to fix the value of an absolute occupancy-right which is already mortgaged, he shall fix the value of the right as if it were not mortgaged ; and, if the landlord purchases the right, the mortgage-debt shall be a charge on the purchase-money in exoneration of the land.

(7) Any transfer made in contravention of this section shall be voidable at the instance of the landlord.

(8) If a person to whom an absolute occupancy-tenant has transferred possession of his holding in contravention of the provisions of this section be ejected by the landlord, the tenant may apply to a Revenue-officer within one year of the ejectment of such person to be reinstated in possession of the holding, and the Revenue-officer may order him to be reinstated in possession on his depositing within a stated period, for payment to the landlord, the costs incurred by the landlord in procuring the ejectment. If the tenant fails to make such application within one year of the ejectment, or if he fails to deposit such costs within the period stated, his tenancy shall be deemed to have lapsed.

Absolute occupancy-tenant not liable to ejectment.

42. Notwithstanding any contract to the contrary, or any provision of a record-of-rights, an absolute occupancy-tenant shall not be ejected from his holding by his landlord as such for any cause.

Rent first charge on holding and holding saleable in execution of decree for arrears of rent.

43. The rent of the holding of an absolute occupancy-tenant shall be the first charge on that holding, which shall, subject to the other provisions of this Act, be liable to sale in execution of a decree for arrears of the rent thereof.

CHAPTER IV.

OF OCCUPANCY-TENANTS.

Definition of "occupancy-tenant".

44. Every tenant who, on the first day of January, 1884, had held the same land continuously for twelve years, otherwise than as an absolute occupancy-tenant or a sub-tenant, and every person who is at the commencement of this Act, or thereafter becomes, a tenant (not being an absolute occupancy-tenant or a sub-tenant) of land in the districts of Chánda, Nímar and Sambalpúr, shall be deemed to be an occupancy-tenant of that land:

Provided that the land is not—

(*a*) sír-land, or

(*b*) held in lieu of wages, or

(*c*) held, in any district other than Sambalpúr, under a written lease in which it is expressly agreed that a right of occupancy in the land shall not be acquired or that the tenant shall quit the land at the termination of the lease.

Explanation I.—The occupation of any person from whom the tenant inherited or lawfully acquired his holding shall, for the purposes of this section, be deemed to be the occupation of the tenant.

Explanation II.—Where, by the custom of any village, the holdings of tenants are, or have been, liable to periodical re-distribution, land which a tenant or any person under whom he claims has, in accordance with that custom, from time to time, received in exchange for land previously held by him, is, for the purpose of calculating, under this section, the period of twelve years, deemed to be the same land as the land which he held before the exchange.

Accrual of occupancy-tenant-right in sír-land on transfer of right to occupy as proprietor.

45. (1) Notwithstanding any agreement to the contrary and save where sanction has been given under sub-section (2), a proprietor who, after the commencement of this Act, temporarily or permanently loses (whether under decree or order of a Civil Court or a Revenue-officer or otherwise) or transfers his right to occupy sír-land as a proprietor, shall at the date of such loss or transfer become an occupancy-tenant of that sír-land, and the rent payable by him as such shall be the sum determined at the current settlement as the rental value of such land, unless and until, on the application of either landlord or tenant, the rent is fixed by a Revenue-officer.

Grant of sanction in certain cases to transfer of the right to occupy sír-land.

(2) An application by a proprietor for sanction to transfer his sír-land without reservation of the right of occupancy provided for in sub-section (1) may be made to such Revenue-officer, not being below the class of Deputy Commissioner, as

the [1] [State Government] may appoint for this purpose. Such officer shall sanction transfer in cases in which he is satisfied that the transferor is not wholly or mainly an agriculturist or that the property is self-acquired or has been acquired otherwise than by inheritance within the twenty years last preceding. In other cases he shall transmit the application to the [1] [State Government], which may sanction the transfer in whole or in part, on the ground that—

(*a*) the transferor, though wholly or mainly an agriculturist, will have other permanent means of subsistence after transferring the right to occupy his sír-land, or

(*b*) that the area of the sír-land is too large for the transferor to manage after he has transferred his proprietary rights, or

(*c*) that for any other reason the transfer ought to be permitted.

The [1] [State Government] may make rules for the guidance of Revenue-officers dealing with applications under this sub-section.

Prohibition in certain cases of registration of documents transferring right to occupy sír-land.

(3) Notwithstanding anything contained in the Indian Registration Act, 1877,[2] no officer empowered to register documents under that Act shall admit to registration any document which purports to transfer or surrender the rights of a proprietor in his sír-land, without reservation of the right of occupancy provided for in sub-section (1), or to be an agreement for such transfer or surrender, unless sanction to such transfer or surrender has been endorsed on the document in such manner and by such authority as the [1] [State Government] may direct. Central Act III of 1877

Partition of undivided share in sír-land.

(4) If there are two or more sharers in any sír-land, and one of them becomes an occupancy-tenant in it under this section, his previous share in such sír-land shall, on application made by him or by his landlord, be divided off by a Revenue-officer, and his rights as occupancy-tenant shall be limited to the land comprised in such share.

Saving of rights of ordinary tenants.

(5) The accrual of occupancy-tenant-right under sub-section (1) shall not affect the rights of an ordinary tenant holding any part of the sír-land at the time of such accrual.

Saving of prior registered documents.

[3] (6) Nothing in this section shall affect a document duly registered before the commencement of this Act; and, on any surrender or transfer such as is described in sub-section (1)

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] *See* now the Indian Registration Act, 1908 (Central Act XVI of 1908).

[3] This sub-section was substituted for the original sub-section (6) by Central Act XXI of 1899, s. 2, with effect from the commencement of this Act (Central Act XI of 1898).

being made, decreed or ordered in pursuance of such a document, the rights of the parties to occupy the sír-land shall accrue as if this Act had not been passed.

(7) No Civil Court shall question the validity of an order passed under this section granting or refusing sanction to the transfer of the right to occupy sír-land as a proprietor. Bar of jurisdiction of Civil Courts.

(8) Nothing in this section shall apply to "bhogra" land. Exception of bhogra.

Explanation.—For the purposes of this section a transfer includes a mortgage and a lease.

46. (1) When an occupancy-tenant dies his right in his holding shall devolve as if it were land: Devolution of occupancy-right.

Provided that, except in the districts of Chánda, Nímar and Sambalpúr, a collateral relative of the tenant shall not be entitled to inherit that right, unless at the death of the tenant he was a co-sharer in the holding or unless failing any such co-sharer, he held land, or was permanently resident, in the village in or from which the holding is cultivated, and is in the male line of descent from an ancestor who occupied the holding.

(2) Save in pursuance of a document duly registered before the commencement of this Act, no decree or order shall be passed for the sale of the right of an occupancy-tenant in his holding, nor shall such right be sold in execution of any decree or order. Exemption of occupancy-rights from Court sales.

(3) No occupancy-tenant shall be entitled to sell, make a gift of, mortgage, sub-let (except for a period not exceeding one year) or otherwise transfer his right in his holding or in any portion thereof, and every such sale, gift, mortgage, sub-lease (other than for a period not exceeding one year) or transfer shall be voidable in the manner and to the extent provided by the two next following sections: Prohibition of transfer of occupancy-rights.

Provided that an occupancy-tenant may transfer his right of occupancy to any person who, if he survived the tenant, would inherit the right of occupancy, or to any person in favour of whom as a co-sharer the right of occupancy originally arose, or who has become by succession a co-sharer therein:

Provided, also, that nothing in this section shall affect the right of the Government to sell the right of an occupancy tenant in his holding for the recovery of an advance made to him under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or the right of the purchaser at such sale to succeed to the holding.

Central Act XIX of 1883.
Central Act XII of 1884.

(4) No contract for the sub-lease of a holding or any portion thereof shall be entered into or made during the currency of a sub-lease of such holding or such portion thereof; Prohibition of contracts for future sub-leases.

and every such contract shall be voidable in the manner and to the extent provided by the two next following sections.

Prohibition of registration of documents transferring occupancy-rights.

(5) Notwithstanding anything contained in the Indian Registration Act, 1877,[1] no officer empowered to register documents shall admit to registration any document which purports to transfer the right of an occupancy-tenant in his holding or in any portion thereof, unless the document recites that the transferee is a person who, if he survived the tenant, would inherit the right of occupancy, or is a person in favour of whom as a co-sharer the right of occupancy originally arose or who became by succession a co-sharer therein. Central Act III of 1877.

Rights of certain persons to apply to set aside transfers.

47. (1) If an occupancy-tenant transfers any portion of his right in any land in contravention of the provisions of the last foregoing section, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs, or the landlord from whom the tenant held the land, may, on application to a Revenue-officer, made within two years from the date on which in pursuance of the transfer the tenant parted with possession of the land, be placed in possession, subject, so far as the Revenue-officer may, in accordance with rules made by the [2][State Government] determine, to his acceptance of the liabilities of the transferring tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(2) As among several persons so entitled and being desirous of being placed in possession, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the subject of the transfer if the tenant had died. Failing any such persons, the right shall accrue to the landlord.

Procedure on application.

48. When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *primâ facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the transfer to appear before him on a date to be fixed; and shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide whom from among such of them as desire to be placed in possession is first entitled to be so placed :

[1] *See* now the Indian Registration Act, 1908 (Central Act XVI of 1908).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Provided that in the case of a sub-lease, if the tenant who made the sub-lease appears and pays within such period as the Revenue-officer may determine the amount of the consideration, if any has passed, for which the sub-lease was made and the costs of the applicant if he would otherwise have been successful, the Revenue-officer may replace the tenant himself in possession of the land, if he is satisfied that the tenant made the sub-lease in ignorance of the law and is able and willing to cultivate the holding.

Rent of occupancy-tenant to be fixed at settlement.

49. The rent of the holding of every occupancy-tenant shall be fixed by the Settlement-officer at each settlement of the area in which the holding is comprised.

Fixation of rents during currency of settlement in Chánda, Nimár and Sambalpúr.

50. (1) In the districts of Chánda, Nimár and Sambalpúr, the rent fixed under section 49 shall not be altered during the currency of any settlement except under section 13, section 14, section 15 or section 17.

(2) The rent payable in respect of his holding by a tenant in any of those districts at the commencement of this Act shall be deemed to have been fixed at the current settlement of the area in which that holding is comprised.

(3) Subject to the provisions of sections 13, 14, 15 and 17 the rent payable by any such tenant in respect of a holding acquired by him after the commencement of this Act shall, pending the recurrence of the settlement of the area in which that holding is comprised, be the rent fixed by agreement between him and his landlord at the time he acquired that holding, or, in the absence of any such agreement, or on the expiration of the term for which any such agreement has been made, a rent fixed by a Revenue-officer on the application of either party at the following rate, that is to say :—

(*a*) in the districts of Chánda and Nimár, the rate which the [1] [State Government] has prescribed for occupancy-tenants and caused to be entered in the record-of-rights at the current settlement ;

(*b*) in the district of Sambalpúr, the average rate at which at the current settlement the rents of other lands in the same village of similar quality and possessing similar advantages were fixed.

Enhancement during settlement in other districts.

51. The rate of rent payable in money by an occupancy-tenant in any other district may, during the currency of a settlement on the application of the landlord to a Revenue-officer, be enhanced, subject to any rules made under this

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Act for the local area in which the holding is situate and for the time being in force :

Provided that—

(*a*) an application under this section shall not be entertained when, within the ten years immediately preceding the application, the rent of the holding has been fixed at any settlement or under any of the other provisions of this Act, except those of section 13, 14 or 15, or a suit or application to enhance it has been dismissed on the merits ; and

(*b*) no order shall be made on any such application which is inconsistent with any contract made after the current settlement and still in force, such contract being consistent with this Act.

Grounds for ejectment.

52. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an occupancy-tenant shall not be ejected from his holding by his landlord as such except—

(*a*) as hereinafter provided for arrears of rent ; or

(*b*) in execution of a decree of a Civil Court passed on the ground of his having diverted the land to non-agricultural purposes or being chargeable with some other act or omission which, by custom not inconsistent with this Act or with any other enactment for the time being in force, renders him liable to be ejected.

Tenant changing land in accordance with village-custom.

53. A tenant having a right of occupancy in land situate in a village in which the holdings of tenants are by custom liable to periodical re-distribution, and exchanging that land in accordance with the custom for other land situate in the same village, shall be deemed to have a right of occupancy in the land so taken in exchange.

Tenant changing land in other cases.

54. If a tenant having a right of occupancy in any land ceases to hold that land, and thereupon commences to hold other land of the same landlord, under circumstances from which it may be inferred that the tenant has accepted that other land in lieu of, and on the same conditions as, the land which he has ceased to hold, he shall, in the absence of a written agreement to the contrary, be deemed to have a right of occupancy in the land which he so commences to hold.

CHAPTER V.

Of Village-service-tenants.

Definition of "village-service-tenant."

55. A tenant of a holding who is recorded in the papers of the current settlement of the area in which the holding is comprised as holding his land rent-free or on favourable terms on condition of rendering village-service is a village-service tenant.

(Chapter V.—Of Village-service-tenants.)

Devolution and transfer of village-service-tenant's right.

56. (1) When a village-service-tenant dies, resigns or is lawfully dismissed, his right in his village-service-holding shall pass to his successor in office :

Provided that the [1] [State Government] may, by general or special order, direct that, where, on the resignation, dismissal or death of a village-watchman or patwari, his successor in office is not his heir, the village-service-tenure shall cease, in which case the holding shall be retained in occupancy-tenant right by the late village-service-tenant or shall devolve in occupancy-tenant right on his heir, as the case may be, at a rent which for the remainder of the term of the current settlement shall be that determined at such settlement as the rental value of the holding.

(2) A transaction by which a village-service-tenant attempts to effect a transfer of his interest in his village-service-holding by sale, gift, mortgage, sub-lease or otherwise except by a sub-lease for a period not exceeding one year shall be void, and the village-service-tenant shall be liable to be ejected for such attempt.

(3) The right of a village-service-tenant shall not be sold in execution of a decree.

Obligation of village-service-tenant to provide substitute.

57. If a village-service-tenant is unable to render the service which he is bound to render, he shall provide a competent person to render it for him.

Grounds on which a village-service-tenant may be ejected.

58. (1) A village-service-tenant shall not be ejected from his holding except in execution of an order for ejectment passed by a Revenue-officer on one of the following grounds, namely :—

(*a*) that the tenant has attempted to effect a transfer of his holding in contravention of section 56, sub-section (2) ;

(*b*) that the tenant has ceased to render the service which he is bound to render, or has failed to render it properly or, being unable to render it himself, has failed to provide a competent person to render it as required by section 57 ;

(*c*) that the tenant has diverted his land to non-agricultural purposes or is chargeable with some other act or omission which, by local custom or the provisions of the village wajib-ul-arz, renders him liable to be dismissed from office ;

(*d*) that the tenant has resigned, or been dismissed from, his office.

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

(2) When a village-service-tenant is ejected from his holding under this section, or when he dies or resigns or is dismissed from his office, a Revenue-officer may, subject to any order issued under the proviso to section 56, sub-section (1), place his successor in office in possession of the holding; and when a village-service-tenant is ejected from, or loses possession of, his holding otherwise than in accordance with this section, a Revenue-officer may reinstate him in the possession of his holding and eject any transferee or trespasser who may be in wrongful possession thereof.

CHAPTER VI.

OF SUB-TENANTS.

59. A tenant who is not an absolute occupancy-tenant or an occupancy-tenant and who holds land from another tenant, or from a mālik-mākbūzā, or from the holder of a survey-number, is a sub-tenant of that land.

60. A sub-tenant shall, subject to the provisions of sections 6, 15 and 16, hold on such terms as may be agreed upon between him and his landlord:

Provided that, notwithstanding any agreement to the contrary, a lease granted to a sub-tenant by an occupancy or an ordinary tenant shall not be valid for a period exceeding one year.

Power to declare sub-tenants in certain cases to have rights of ordinary tenants.

61. (1) In any local area in which the [1] [State Government] may, by notification in the [2] [Official Gazette], declare this section to be in force, a sub-tenant holding from a tenant who is proved to the satisfaction of a Revenue-officer or Settlement-officer to habitually sub-let the land held by the sub-tenant and to manage it solely with a view to the obtaining of rent may, subject to such rules as the [1] [State Government] may prescribe, be declared by such Revenue-officer or Settlement-officer to have all the rights conferred by this Act on an ordinary tenant, and shall thereupon be deemed to have such rights both as against the sub-letting tenant and as against the landlord from whom the latter holds:

Provided that no such declaration shall be made within one year after the commencement of this Act or in the case of a sub-tenant holding under a lease registered before the commencement of this Act or until an opportunity has been given to the sub-letting tenant to show cause against it.

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "local official Gazette," by the Adaptation Order of 1937.

(Chapter VI.—Of Sub-tenants. Chapter VII.—Of Ordinary Tenants.)

(2) When a sub-tenant has been declared under this section to have the rights of an ordinary tenant, so much of the rent payable by him as is equal to the rent payable to the proprietor by the tenant from whom he holds on account of the land sub-let to him shall be rendered by him to the proprietor direct, and the balance shall be rendered by him to the tenant from whom he holds.

(3) If a tenant regarding whose land a declaration under this section has been made dies without heirs or surrenders his holding, the sub-tenant shall be deemed to hold direct from the landlord at the total rent paid by him for the land at the time of such death or surrender.

CHAPTER VII.

OF ORDINARY TENANTS.

Definition of "ordinary tenants."

62. (1) Every tenant who is not an absolute occupancy-tenant, or an occupancy-tenant, or a village-service-tenant or a sub-tenant, is an ordinary tenant.

(2) In any local area in which the [1] [State Government] may, by notification in the [2] [Official Gazette], declare that the provisions of this sub-section are in force, where a person cultivates land not being sīr-land under an agreement made with the proprietor of the land and purporting to be an agreement for the cultivation of the land by such person and such proprietor in partnership, such person is an ordinary tenant of the land so cultivated by him, and, notwithstanding any contract to the contrary, the rent payable by him for the land shall be fixed by a Revenue-officer on application made by him or his landlord.

Landlord's right to recover rents determined at settlement as payable by ordinary tenants.

63. (1) A Settlement-officer shall, unless the [1] [State Government] otherwise directs, fix the rents payable by the ordinary tenants of a mahāl other than ordinary tenants whose holdings consist entirely of sīr-land, and on and from the date on which the land-revenue assessment takes effect, the landlord shall be entitled to recover only the rents so fixed.

(2) The rents fixed under sub-section (1) shall be recorded in the proceedings of the Settlement-officer, and a copy of the record shall be granted free of expense to the landlord.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "local official Gazette," by the Adaptation Order of 1937.

(3) When by reason of the receipt by the landlord of any consideration, whether in money or otherwise, a tenant is holding at a rent lower than that fixed by the Settlement-officer under sub-section (1), the Settlement-officer may, notwithstanding anything in this Act, declare him to be entitled to hold at such lower rent,—

(*a*) if the term is fixed by contract, for the term so fixed or for any shorter period ;

(*b*) in other cases, for such term as the Settlement-officer, having regard to the circumstances, fixes as fair and equitable ;

and the term for which the tenant is declared to be so entitled shall be entered in the record made under sub-section (2) :

Provided that in no case shall the tenant be entitled to hold at such lower rent for a period longer than that for which the settlement is being made, and, at the expiry of the settlement, he shall not be entitled to a continuance of the privilege.

Notice of enhancement to be served through Revenue-officer.

64. When a landlord wishes to enhance the rent of an ordinary tenant whose holding does not consist entirely of sīr-land and whose rent is not fixed by an agreement in writing and the tenant does not agree to the enhancement, the landlord may cause to be served on the tenant through a Revenue-officer a notice of the enhancement not less than six months or morethan twelve months before the commencement of the agricultural year in which the landlord desires the enhancement to take effect.

Liability of tenant to ejectment in default of his agreeing to enhancement.

65. (1) If, within the period of one month from the service of a notice under the last foregoing section, the tenant on whom the notice has been served presents to the Revenue-officer issuing the notice a statement in writing declaring his willingness to pay the enhanced rent, he shall be deemed to have agreed to pay that rent from the commencement of the agricultural year next following.

(2) If the tenant does not, within the said period of one month, present to the Revenue-officer a statement as aforesaid, the landlord may, not less than ten weeks before the commencement of the agricultural year next following, apply to the Revenue-officer to eject the tenant.

Procedure in ejectment-suit.

66. (1) If, when application has been made under sub-section (2) of the last foregoing section, the tenant appears and agrees to pay the enhanced rent demanded, his agreement shall thereupon be recorded, and he shall not be ejected but shall be liable to pay that rent from the commencement of the agricultural year next following the date of the landlord's application under section 65, sub-section (2).

(2) If the tenant fails to appear, or if, on appearing, he does not agree to pay the enhanced rent demanded, the Revenue-officer shall determine what rent is fair and equitable for the holding: Provided that, save where in the Revenue-officer's opinion the existing rent is merely nominal, the rent so determined shall not exceed the existing rent by more than thirty-three per cent.

(3) If the tenant agrees to pay the rent so determined, he shall be entitled to remain in occupation of the holding at that rent from the commencement of the agricultural year next following the date of the landlord's application under section 65, sub-section (2).

(4) If the tenant does not agree to pay the rent determined under sub-section (2), the Revenue-officer may make an order for his ejectment, subject to the provisions of sections 88 and 89 and subject to the deposit by the landlord, within a month from the date of the order, of the amount of compensation (if any) determined as due to the tenant under section 32. If such amount is not so deposited, the order for ejectment shall become void.

Rent of ordinary tenant regulated by agreement.

67. An ordinary tenant shall, subject to the provisions of sections 13, 14, 15, 16, 63, 66 and 78, pay such rent as may, from time to time, be fixed by agreement between him and his landlord.

Fresh proceeding not to be taken for seven years.

68. When the rent of a tenant has been fixed by a Settlement-officer under section 63, or where a tenant has agreed to pay an enhanced rent for his holding under section 65, or when a tenant is holding at a rent fixed as fair and equitable under section 66 or section 78, or when a rent has been agreed upon by contract or consent between the landlord and his tenant in respect of any holding, or when an order under section 66 to eject a tenant from his holding has become void from failure of the landlord to deposit the amount of compensation (if any), determined as due to the tenant under section 32, no notice of enhancement under section 64 shall be served on such tenant in respect of such holding, nor shall any further enhancement, by contract or consent or otherwise, in respect of such holding be permissible, for a period of seven years from the date on which the settlement made by the Settlement-officer took effect, or from the date of such fixation, agreement, contract or consent, or from the date of such order for ejectment becoming void, as the case may be:

Provided that, where a tenant is holding land under a special contract with his landlord at a favourable rent for a term of years in consideration of temporary deterioration, or of the labour or expense involved in the reclamation by such tenant of the land from waste, nothing in this section shall be

construed to prevent a fair rent being fixed or agreed upon after the expiration of the term of such contract.

Grounds on which an ordinary tenant may be ejected.

69. Notwithstanding any contract to the contrary or any provision of a record-of-rights, an ordinary tenant shall not be ejected from his holding by his landlord as such except—

(*a*) as provided in the case of an occupancy-tenant by section 52 ;

(*b*) in accordance with the provisions of section 66 ;

(*c*) in execution of a decree for ejectment passed on the ground that his holding consists entirely of sīr-land.

Devolution of ordinary tenancy.

70. (1) When an ordinary tenant dies, his right in his holding shall devolve as if it were land :

Provided that a collateral relative of the tenant shall not be entitled to inherit his right unless at the death of the tenant he was a co-sharer in the holding.

Exemption of ordinary tenant-rights from Court sales.

(2) Save in pursuance of a document duly registered before the commencement of this Act, no decree or order shall be passed for the sale of the right of an ordinary tenant in his holding, nor shall such right be sold in execution of any decree or order.

Prohibition of transfer of ordinary tenant-rights.

(3) No ordinary tenant shall be entitled to sell, make a gift of, mortgage, sub-let (except for a period not exceeding one year) or otherwise transfer his right or holding or any portion thereof ; and every such sale, gift, mortgage, sub-lease (other than for a period not exceeding one year) or transfer shall be voidable in the manner and to the extent provided by the two next following sections :

Provided that nothing in this sub-section shall affect the right of the Government to sell the right of an ordinary tenant in his holding for the recovery of an advance made to him under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or the right of the purchaser at such sale to succeed to the holding.

Central Act XIX of 1883.

Central Act XII of 1884.

Prohibition of contracts for future sub-leases.

(4) No contract for the sub-lease of a holding or any portion thereof shall be entered into or made during the currency of a sub-lease of such holding or such portion thereof ; and every such contract shall be voidable in the manner and to the extent provided by the two next following sections.

Prohibition of registration of documents transferring ordinary tenant-rights.

(5) Notwithstanding anything contained in the Indian Registration Act, 1877[1], no officer empowered to register documents under that Act shall admit to registration any document which purports to transfer the right of an ordinary tenant in his holding or in any portion thereof.

Central Act II of 1877.

[1] *See now* the Indian Registration Act, 1908 (Central Act XVI of 1908).

(Chapter VII.—Of Ordinary Tenants.)

Right of certain persons to apply to set aside transfers.

71. (1) If an ordinary tenant transfers any portion of his rights in any land in contravention of the provisions of the last foregoing section, any such person as would be entitled to inherit his right in the holding in the event of his death without nearer heirs, or the landlord from whom the tenant held the land, may, on application to a Revenue-officer made within two years from the date on which, in pursuance of the transfer, the tenant parted with possession of the land, be placed in possession, subject, so far as the Revenue-officer may, in accordance with rules made by the [1][State Government], determine, to his acceptance of the liabilities of the transferring tenant for arrears of rent and for advances made by the landlord or other persons for the necessary expenses of cultivation.

(2) As among several persons so entitled and being desirous of being placed in possession, the right to be so placed shall accrue in the order in which such persons would have inherited the right of the tenant in the subject of the transfer if the tenant had died. Failing any such persons, the right shall accrue to the landlord.

Procedure on application.

72. When any such application as aforesaid is made, the Revenue-officer shall issue a notice to all persons who seem to him *prima facie* to have a right equal or prior to that of the applicant, and shall also cause local proclamation to issue in the village in or from which the holding was cultivated, inviting all persons claiming to be heirs of the tenant who made the transfer to appear before him on a date to be fixed; and, shall, after hearing such of the persons to whom notice was issued as may appear, and any other persons who may apply to be heard in the matter, decide who from among such of them as desire to be placed in possession is first entitled to be so placed:

Provided that in the case of a sub-lease, if the tenant who made the sub-lease appears and pays within such period as the Revenue-officer may determine the amount of the consideration, if any has passed, for which the sub-lease was made, and the costs of the applicant if he would otherwise have been successful, the Revenue-officer may replace the tenant himself in possession of the land, if he is satisfied that the tenant made the sub-lease in ignorance of the law and is able and willing to cultivate the holding.

Obligation of landlord to confer occupancy rights on ordinary tenant.

73. (1) Notwithstanding any contract to the contrary, the landlord of any holding held by an ordinary tenant shall, at the request of the tenant and on the tender by the tenant to him of a sum equal to two-and-a-half times the annual rent

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

payable in respect of the holding together with the cost of preparing any instrument required for this purpose, confer upon the tenant the rights of an occupancy-tenant in respect of the holding ; and, when those rights have so been conferred the rent of the tenant shall be deemed to be fixed under this Act, within the meaning of section 51, at the rate at which rent was payable by the tenant at the date of the request and tender :

Provided that, the tenant may, for the purposes of any such request and tender, and the landlord may, upon any such request and tender being made to him, apply to a Revenue-officer, or during the progress of settlement-operations to a Settlement-officer, to fix the rent of the holding for the purposes of this section ; and, if it is proved to the satisfaction of the officer that the rate of rent payable in respect of the holding is greater or less than the rate usually paid by ordinary tenants of holdings situate in the village or vicinity for land of similar quality with like advantages, the officer may fix the rent at the latter rate, and the rent so fixed shall for the purposes of this section be deemed to be, and to have been at the date of the request and tender, the rent payable by the tenant :

Provided, further, that, if the application is made otherwise than during the progress of settlement-operations, nothing in this section shall be construed to empower a Revenue-officer to alter a rent within seven years of its having been fixed under any of the provisions of this Act, except on the ground that some such change as is described in section 15 has since occurred so as to render the rent so fixed no longer a fair rent.

(2) If a landlord to whom a request and tender are made by a tenant under sub-section (1), refuses or neglects for a period of one month to confer the rights of an occupancy-tenant on the tenant, the tenant may deposit the sum aforesaid in the Court of a Revenue-officer, or, during the progress of settlement-operations, of a Settlement-officer, and apply to that officer to confer upon him the rights of an occupancy-tenant in respect of the holding.

(3) The officer so applied to, after giving notice of the application to the landlord and hearing him, if he appears, and after making such inquiry as he thinks necessary, may execute any instrument required for conferring the rights of an occupancy-tenant in respect of the holding upon the tenant, and the execution shall have the same effect as an execution by the landlord.

(4) Every person upon whom the rights of an occupancy-tenant are conferred under this section shall be deemed to be an occupancy-tenant for the purposes of this Act.

(5) Nothing in this section shall apply to a holding consisting entirely of sir-land.

CHAPTER VIII.

JURISDICTION AND PROCEDURE.

Power to direct that suits between landlords and tenants be entered in separate registers.

74. The [1][State Government] may direct that all suits, or any specified class of suits, between landlords and tenants as such, shall not be registered in the registers of civil suits kept under the [2]Code of Civil Procedure, but in such other registers as it may prescribe.

Central Act XIV of 1882.

Plaint in such suits.

75. (1) In suits between landlords and tenants as such the plaint shall, in addition to the matters mentioned in section 50 of the [2]Code of Civil Procedure, specify the area of the land to which the suit relates, and, where the fields comprised in that land have been numbered in a Government survey, the number of each such field; and, in the case of suits for an arrear, the amount of the yearly rent and the instalments in which it is payable.

Central Act XIV of 1882.

(2) When the land to which the suit relates comprises parts of numbered fields or has not been divided into numbered fields, an accurate and sufficient description of the land and its boundaries shall be given in the plaint.

Legal practitioners' fees not allowed unless for special reasons.

76. In suits between landlords and tenants as such, the fees of a legal practitioner shall not be allowed as costs unless the Court considers, for reasons to be recorded by it in writing, that those fees ought to be allowed.

Set-off when allowed in suits for arrears.

77. No set-off shall be allowed in any suit for arrears unless the amount claimed as a set-off has been determined by a decree or order of a competent Court or of a Revenue-officer or Settlement-officer.

Procedure when ordinary tenant in suit pleads excessive rent.

78. (1) If in any suit in which the defendant is an ordinary tenant whose holding does not consist entirely of sir-land the tenant appears and, at any time before a decree is passed, pleads that his rent is excessive, the Court shall inquire into the circumstances of the rent.

(2) If the Court finds that the rent payable by the tenant has been enhanced by contract or consent above the rent determined by a Settlement-officer at the current settlement or by a Revenue-officer under this Act, or, when not so determined, above the rent at which the holding was first taken up by the tenant, or, if the rent payable was determined by a Settlement-officer in proceedings taken before the commencement of this Act only after the landlord had refused to comply

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] *See now* the Code of Civil Procedure, 1908 (Central Act V of 1908).

with the request of the Settlement-officer to reduce it, the Court may stay proceedings and refer the case to a Revenue-officer, who shall thereupon fix what rent is fair and equitable for the holding. If the rent so fixed is equal to or more than the rent previously payable, the Court shall decree the arrears claimed and proved. If the rent so fixed is less than the rent previously payable, the Court shall decree against the tenant arrears of rent on account of any year only to the extent of the amount (if any) by which his payments for that year fell short of the rent so fixed. The tenant shall be entitled to remain in occupation at a rent fixed under this sub-section from the commencement of the agricultural year next following the date of the institution of the suit.

(3) If the Court finds that the rent, in respect of which the plea is made by the tenant, was not enhanced or determined in the manner described in sub-section (2), but was the rent at which the tenant first took up the holding from the landlord, the Court shall pass a decree for such sum as may be due at the rent so payable, but may, before or after passing the decree, refer the case to a Revenue-officer, who shall thereupon fix what is a fair and equitable rent for the holding, and, if the tenant pays the amount decreed within one month of the date on which the rent is so fixed, he shall be entitled to remain in occupation of his holding at the rent so fixed with effect from the commencement of the agricultural year next following the date of the institution of the suit.

Explanation I.—Nothing in this section shall be construed to authorize a Revenue-officer to determine a rent higher than that payable by the tenant at the date of the institution of the suit except from the commencement of the agricultural year next following the date of the institution of the suit, and on the formal application of the landlord.

Explanation II.—A statement made during the progress of settlement-operations by the Settlement-officer, and contained in any return or report prescribed by the [1][State Government], to the effect that a landlord refused to reduce any rent shall be conclusive proof of such refusal.

Tenants' improvements how to be treated in fixing rents.

79. When the land in respect of which an application is made under section 50 or section 51, or for which a fair rent is to be determined under section 66 or section 78, has been improved, in accordance with the provisions of this Act, by the agency, or at the expense, of the tenant, and such improvement was made during the term of the current settlement or the term of the settlement immediately preceding it, the quality and advantages of the land, as cultivated

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

land, shall, notwithstanding anything contained in any contract or record-of-rights to the contrary, be deemed, for the purposes of any such section as aforesaid, to be the quality and advantages which the land would have had and enjoyed if the improvement had not been made.

Interest on arrears.

80. In suits for arrears, interest on the arrears may be allowed up to the date of institution at such rate, not exceeding twelve per cent per annum, as the Court thinks fit.

No appeal in certain suits for arrears.

81. A decree or order passed in a suit for arrears, whether on appeal or otherwise, by a Judge of a Civil Court exercising powers not less than those of an Assistant Commissioner of the first class as defined in the [1]Central Provinces Civil Courts Act, 1885, shall not be subject to appeal, unless—

Central Act XVI of 1885.

(*a*) the amount or value of the subject-matter of the suit exceeds one hundred rupees ; or

(*b*) a question relating to a title to land or some interest in land has been determined as between parties having conflicting claims thereto.

Application for execution by sale of holding or by ejectment.

82. An application for the execution of a decree for an arrear of rent by sale of the holding in respect of which the arrear accrued or by ejectment of the tenant shall contain a statement showing the tahsil and village in which the holding is situate, the numbers borne in the village rent-roll by the fields constituting the holding, the rent annually payable, and the years in which the decreed arrears accrued.

Arrears decreed not to be on current year's account.

83. No such application as is referred to in the foregoing section shall be admitted until after the expiration of the year in which the arrear, or any part of the arrear, accrued.

Procedure in execution by sale of holding.

84. (1) A decree for arrears of rent due in respect of an absolute occupancy-holding shall, if sale of such holding be ordered in execution, be executed as if it ordered sale in pursuance of a contract specifically affecting the holding, and shall under section 320 of the [2]Code of Civil Procedure be transferred to the Collector for execution.

Central Act XIV of 1882.

(2) The Collector executing the decree may, notwithstanding anything contained in section 305 of the [2]Code of Civil Procedure, allow the tenant time in which to pay the amount due: Provided that any period, or the aggregate of any periods, so allowed shall, subject to any general or special orders which may be issued by the [3][State Government], not exceed two months.

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[1] Central Act XVI of 1885 was repealed by the Central Provinces Courts Act, 1904 (Central Act II of 1904).

[2] *See now* the Code of Civil Procedure, 1908 (Central Act V of 1908).

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Procedure in execution by ejectment.

85. (1) A decree for an arrear of rent due in respect of an occupancy or ordinary holding or a holding held by a sub-tenant may be executed by the ejectment of the tenant: Provided that, notwithstanding anything contained in the [1]Code of Civil Procedure, an order for the ejectment of a tenant in execution of such a decree shall be transferred to a Revenue-officer for execution. Central Act XIV of 1882.

(2) The Revenue-officer, on receiving the decree, shall cause a notice to be served upon the tenant stating the date of the decree, the amount due thereunder and the numbers borne in the village rent-roll by the fields constituting the holding, and informing him that if he does not pay into Court within a month from date the amount due, he will be ejected from his holding.

(3) If the amount due is not paid within the period appointed, the Revenue-officer may, subject to the provisions of sections 32, 88 and 89, eject the tenant or may, after such inquiry as he deems necessary, postpone ejectment in order to allow the tenant time for payment : Provided that any period, or the aggregate of any periods, so allowed shall, subject to any general or special orders which may be issued by the [2][State Government], not exceed in the case of an occupancy-holding or an ordinary holding not consisting entirely of sir-land four months, or in the case of an ordinary holding consisting entirely of sir-land or a holding held by a sub-tenant one month.

(4) The [2][State Government] may make rules for the guidance of Revenue-officers executing decrees under this section.

Power of court to deal with cases of drought or other calamity in suits for arrears.

86. (1) Where, in answer to a suit for an arrear, the tenant admits that the arrear is due, but pleads that the produce of his holding during the period in respect of which the arrear is claimed has been diminished or destroyed by drought, hail or other extraordinary calamity beyond his control, the Court in its discretion may, notwithstanding any contract to the contrary, allow in its decree any deduction from the arrear, and direct payment of the amount decreed (if any) in such instalments (if any) as it thinks fit.

(2) In any such case the Court may order that the provisions of sections 84 and 85 shall not apply to the decree.

(3) In making a decree under this section the Court shall have regard to—

(*a*) the value of the produce of the holding for the whole agricultural year in respect of which the arrear accrued ; and

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[1] *See now* the Code of Civil Procedure, 1908 (Central Act V of 1908).

[2] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

(*b*) the proportion which the amount of rent payable for that year by the tenant bears to that value.

(4) If in any such suit it appears that the land-revenue of the village in which the holding is situate has been, wholly or in part, suspended or remitted on account of drought, hail or other extraordinary calamity in respect of the period for which the arrear is claimed, the Court shall presume, until the contrary is shown, that the diminution or destruction alleged by the tenant has taken place.

Relief against forfeitures.

87. (1) A suit for the ejectment of a tenant on the ground that he has done or omitted to do something for doing or omitting to do which he is liable to ejectment, or that he has broken a condition on breach of which he is, under the terms of a contract between him and the landlord, liable to ejectment shall not be entertained unless the landlord has requested the tenant, where the damage or breach is capable of remedy, to remedy the same, and, in any case, to pay reasonable compensation for the damage or breach, and the tenant has failed to comply within a reasonable time with that request.

(2) A decree passed in favour of a landlord in any such suit shall declare the amount of compensation which would reasonably be payable to the plaintiff for the damage or breach and whether, in the opinion of the Court, the damage or breach is capable of remedy, and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the damage or breach is declared to be capable of remedy, to remedy the same.

(3) The Court may, from time to time, extend a period fixed by it under sub-section (2) for remedying a damage or breach.

(4) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the damage or breach is declared by the Court to be capable of remedy, remedies the damage or breach to the satisfaction of the Court, the decree shall not be executed.

Rights of ejected tenants in respect of crops and land prepared for sowing.

88. The following rules shall be applicable in the case of every tenant ejected from a holding :—

(1) When the tenant has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled at the option of the landlord, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landlord the estimated value of the labour and capital expended by the tenant in preparing the land and sowing, planting and tending the crops, together with reasonable interest thereon.

(2) When the tenant has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord the estimated value of the labour and capital expended by him in so preparing the land, together with a reasonable interest thereon :

Provided that a tenant shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after the commencement of proceedings by the landlord for his ejectment, he has cultivated or prepared the land contrary to local usage :

Provided, also, that the rent, if any, payable to the landlord by the tenant at the time of ejectment may be set off against any sums payable to the tenant under this section.

Payment by tenant for occupation of land under section 88.

89. When a landlord elects, under clause (1) of the last foregoing section, to allow a tenant to retain possession of any land for the purpose specified in that clause, the tenant shall pay to the landlord, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, such rent as the Court or Revenue-officer may deem reasonable.

In suits for arrears, all claims between landlord and tenant to be determined.

90. In all suits for arrears of rent, the Court shall inquire into and determine all claims under this Act by the landlord against the tenant as such, or by the tenant against the landlord as such.

Procedure when, on sale or ejectment, money is due by the landlord to the tenant.

91. (1) When it appears to a Court making an inquiry under the last foregoing section that the amount payable by the landlord to the tenant as such exceeds the amount payable by the tenant to the landlord as such, the decree or order for sale or ejectment (if any) shall, unless the landlord and tenant come to an arrangement regarding the payment of the excess sum, specify a time within which it must be paid into Court.

(2) If it is so paid within the time specified, the Court shall, subject to the other provisions of this Act, make an order for the sale of the holding or the ejectment of the tenant and, if it is not so paid, the Court shall refuse to make such order.

Reinstatement of tenant illegally ejected.

92. Any tenant, who has been ejected from his holding or from any portion thereof otherwise than in accordance with the provisions of this Act, may, on application to a Revenue-officer made within one year from the date of his ejectment, be reinstated in possession of such holding or portion :

Provided that no order passed under this section shall prejudice the right of the landlord to eject the tenant so reinstated, or the right of a tenant whose application for reinstatement is rejected to establish his title to his holding and to recover possession thereof by means of a regular suit :

Provided, also, that possession of a tenancy, or of any portion thereof, shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant dispossessed thereof.

Central Act I of 1877.

Application to measure or ascertain conditions of holdings.

93. (1) If any landlord or tenant of a holding desires that the extent of that holding be ascertained, or that evidence relating to any improvement made in respect thereof or to the state of the holding at any specified time, be recorded, he may apply to a Revenue-officer ; and that officer shall thereupon, in presence of the parties,—

(*a*) make or cause to be made such inquiry as he thinks fit, with a view to ascertaining the extent of the holding, and record his finding thereon, or

(*b*) (where the applicant seeks to have evidence recorded) record that evidence :

Provided that no action shall be taken by any Revenue-officer under this section if he considers that there are no reasonable grounds for making the application, or if the subject-matter thereof is under inquiry in a Civil Court.

(2) When any matter has been recorded under this section, the record shall be admissible in evidence in any subsequent proceedings between the landlord and tenant or any persons claiming under them.

Limitation in suits under the Act.

94. (1) The period of limitation for a suit instituted by a tenant other than an absolute occupancy-tenant to recover possession of land from which he has been ejected, shall be two years from the date on which he is ejected.

(2) Whenever rent is taken by division of the produce or by estimate or appraisement of the crop, and no application is made under section 19, no suit by the landlord for the recovery of the share of the produce claimed by him as rent or the value thereof, shall lie unless such suit is instituted within a period of one year reckoned from the date on which the rent instalment on account of the harvest to which the crop belongs fell due.

(3) In all other cases the limitation of every suit brought under this Act shall be governed by the [1]Indian Limitation Act, 1877 :

Central Act XV of 1877.

Provided that nothing in sections 7, 8 and 9 of the said Act shall apply to suits for arrears of rent or for the ejectment

[1] *See now* the Indian Limitation Act, 1908 (Central Act IX of 1908).

of a tenant, or to suits for recovery of possession by a tenant against his landlord.

Jurisdiction of Civil Courts barred in certain cases.

95. Save where it is expressly provided to the contrary, no Court other than the Court of a Revenue-officer or Settlement-officer shall fix, alter or commute any rent or call in question any rent fixed by a Revenue-officer or Settlement-officer, or shall take cognizance of any dispute or matter in respect of which authority is given by this Act to a Revenue-officer or Settlement-officer.

Procedure on applications to Revenue and Settlement-officers, and appeals from their orders.

96. (1) In fixing rents and disposing of the matters referred to in the last foregoing section, Revenue-officers and Settlement-officers shall, as nearly as may be practicable, subject to the provisions of this Act and any rules made thereunder, exercise the same powers and follow the same procedure as they exercise and follow under the Central Provinces Land-revenue Act, 1881, as from time to time amended. Central Act XVIII of 1881.

(2) From every decision or order of a Revenue-officer or Settlement-officer fixing rent or disposing of any matter referred to in the last foregoing section, an appeal shall lie as if that decision or order had been passed by that officer under the said Act.

Jurisdiction of Civil Courts in suits between landlords and tenants.

97. Except as provided in section 95, the Civil Courts shall have jurisdiction in all suits between landlords and tenants as such :

Provided that—

(*a*) a Judge of a Civil Court of original jurisdiction shall not, unless he is also a Revenue-officer or Settlement-officer, hear any such suits ; and

(*b*) the [1] [State Government] may, subject to the other provisions of this Act, direct that all or any class of such suits shall be heard and determined only in such Courts competent to try the same as it thinks fit, and not otherwise.

Recovery of fines and penalties.

98. Any sum due as fine or penalty under this Act shall be recoverable as if it were an arrear of land-revenue.

CHAPTER IX.

SUPPLEMENTAL.

Power to State Government to make rules.

99. The [1] [State Government] may, by notification in the [2] [Official Gazette], make rules for the purpose of carrying out the objects of this Act and prescribing the procedure and practice thereunder.

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "local official Gazette," by the Adaptation Order of 1937.

(*Chapter IX—Supplemental.*)

100. [*Repeals.*] *Repealed by the Repealing Act,* 1938 (*Central Act I of* 1938).

The Schedule. [*Enactments repealed. Repealed by the Repealing Act,* 1938 (*Central Act I of* 1938).]

ACT No. VIII OF 1921.[1]

[THE HINDU TRANSFERS AND BEQUESTS (CITY OF MADRAS) ACT, 1921.]

[*27th March 1921.*]

An Act to declare the rights of Hindus to make transfers and bequests in favour of unborn persons in the City of Madras.

WHEREAS it is expedient to declare the rights of Hindus to make transfers and bequests in favour of unborn persons in the City of Madras ; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Hindu Transfers and Bequests (City of Madras) Act, 1921.

Application and extent. **2.** (1) This Act shall apply to all transfers *inter vivos* and wills made by persons governed by the Hindu Law who are domiciled within the limits of the Ordinary Original Civil Jurisdiction of the High Court of Madras.

(2) In the case of transfers *inter vivos* or wills executed before the date of this Act, the provisions of this Act shall apply to such of the dispositions thereby made as are intended to come into operation at a time which is subsequent to the 14th February, 1914 :

Provided that nothing contained in this section shall affect *bona fide* transferees for valuable consideration in whom the right to any property has vested prior to the date of this Act.

Explanation.—Hindus-governed by the Marumakkattayam or the Aliyasantana law shall be deemed to be persons governed by the Hindu Law for the purposes of this Act.

[1] For Statement of Objects and Reasons see *Gazette of India,* dated 5th March 1921, Pt. V, p. 94. For Proceedings in the Indian Legislative Assembly, *see* the Indian Legislative Assembly Debates, dated 21st March 1921, p. 1452.

Disposition for the benefit of person not in existence.

[1] [3. Subject to the limitations and provisions specified in this Act, no disposition of property by a Hindu, whether by transfer *inter vivos* or by will, shall be invalid by reason only that any person for whose benefit it may have been made was not born at the date of such disposition.

Limitations and conditions.

4. The limitations and provisions referred to in section 3 shall be the following, namely :—

(*a*) in respect of disposition by transfers *inter vivos*, those contained in Chapter II of the Transfer of Property Act, 1882, and Central Act IV of 1882.

(*b*) in respect of dispositions by will, those contained in sections 113, 114, 115 and 116 of the Indian Succession Act, 1925.] Central Act XXXIX of 1925.

ACT No. XXXV OF 1925.[2]

[THE MADRAS, BENGAL AND BOMBAY CHILDREN (SUPPLEMENTARY) ACT, 1925.]

[*23rd September 1925.*]

An Act to supplement certain provisions of the Madras Children Act, 1920, of the Bengal Children Act, 1922, and of the Bombay Children Act, 1924.

WHEREAS it is expedient to supplement by legislation in the Indian Legislature certain provisions of the Madras Children Act, 1920, of the Bengal Children Act, 1922, and of the Bombay Children Act, 1924, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras, Bengal and Bombay Children (Supplementary) Act, 1925.

Validation of certain provisions of Madras Children Act, 1920, Bengal Children Act, 1922, and Bombay Children Act, 1924.

2. The Madras Children Act, 1920, the Bengal Children Act, 1922, and the Bombay Children Act, 1924, shall, so far as regards the appellate and revisional jurisdiction conferred by the said Acts on the High Courts of Judicature at Madras, at Fort William in Bengal and at Bombay, respectively, be as valid as if the said Acts had been passed by the Indian Legislature. Madras Act IV of 1920. Bengal Act II of 1922. Bombay Act XIII of 1924.

[1] Sections 3 and 4 were substituted for the original sections 3, 4 and 5 by section 13 of the Transfer of Property (Amendment) Supplementary Act, 1929 (Central Act XXI of 1929).

[2] For Statement of Objects and Reasons, *see Gazette of India*, 1925, Pt. V, p. 195.

PART III.

UNREPEALED REGULATIONS MADE UNDER THE GOVERNMENT OF INDIA ACT, 1870 (33 VICT. CH. 3)—SINCE REPEALED BY THE GOVERNMENT OF INDIA ACT, 1915 (5 AND 6, GEO. 5, CH. 61)—IN FORCE IN THE STATE OF MADRAS.

REGULATION No. I OF 1909.

[THE NUGUR, ALBAKA AND CHERLA LAWS AND CESSES REGULATION, 1909.]

[*1st July 1909.*]

A Regulation to declare the law in force in the Taluqas of Nugur, Albaka and Cherla and to authorize the levy of certain cesses therein and in the Bhadrachalam Taluq.

WHEREAS the taluqas of Nugur, Albaka and Cherla have, in pursuance of Proclamation No. 545, dated the 15th April 1909, issued by the Governor-General in Council under section 4 of the Government of India Act, 1865, with effect from the first day of July 1909, ceased to be subject to the Chief Commissionership of the Central Provinces and become subject to the Government of Madras ;

28 and 29 Vict., c. 17.

AND WHEREAS it is expedient that the law in force in the territory comprised in the said taluqas should, as far as possible, be the same as the law in force in the taluq of Bhadrachalam in the Godavari district of the Madras Presidency ;

AND WHEREAS it is also expedient to provide for the cost of maintaining roads and schools in the said taluqas and in the said taluq of Bhadrachalam ;

It is hereby enacted as follows :—

Short title

1. This Regulation may be called the Nugur, Albaka and Cherla Laws and Cesses Regulation, 1909.

Laws to be in force.

2. (1) Save as provided in sub-section (2), all enactments and all notifications, orders, schemes, rules, forms, and bye-laws issued, made or prescribed under enactments which immediately before the commencement of this Regulation were in force in the taluq of Bhadrachalam in the Godavari district of the Madras Presidency and not in force in the taluqas of Nugur, Albaka and Cherla (hereinafter referred to as the said taluqas), shall come into force in the said taluqas on the commencement of this Regulation.

(2) Nothing in sub-section (1) shall be deemed to affect the following Acts of the Madras Council, namely :—

(*a*) the Madras Revenue Recovery Act, 1864 ;

(*b*) the Madras Hereditary Village Offices Act, 1895 ; and

(*c*) the Madras Estates Land Act, 1908.

Mad. Act II of 1864.
Mad. Act III of 1895.
Mad. Act I of 1908.

Repeal of laws.

3. (1) Save as provided in sub-section (2), all enactments which immediately before the commencement of this Regulation were in force in the said taluqas and not in force in the said taluk of Bhadrachalam shall be deemed to be repealed on and from the commencement of this Regulation in the said taluqas.

(2) Nothing in sub-section (1) shall be deemed to affect the following enactments, namely :—

(*a*) the Central Provinces Land-revenue Act, 1881 ;

(*b*) the Central Provinces Local Self-government Act, 1883, section 41, sub-section (1) ;

(*c*) the Agriculturists' Loans Act, 1884, sections 1, 4, 5 and 6 ; and

(*d*) the Central Provinces Tenancy Act, 1898 :

Central Act XVIII of 1881.
Central Act I of 1883.
Central Act XII of 1884.
Central Act XI of 1898.

Provided that the Central Provinces Land-revenue Act, 1881, and the Central Provinces Tenancy Act, 1898, shall henceforth be construed in the said taluqas subject to the following modifications, namely :—

(*a*) the powers, duties and functions assigned to the [1][State Government] of the Central Provinces by either of the said Acts or the rules made thereunder shall vest in the [2][State Government of Madras] and [3][* * * *] all such powers, duties and functions may be exercised, discharged and executed by the said [4][State Government] as [5][they] may think fit, or may be delegated by [6][them] to any subordinate officer, subject to such limitations as [5][they] may think fit ;

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[1] The words "Provincial Government" were substituted for the words "Chief Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "Provincial Government" were substituted for the words "Governor of Fort St. George in Council" by the Adaptation Order of 1937 and the word "State" was substituted for the word "Provincial" by the Adaptation Order of 1950.

[3] The words "notwithstanding any provision therein subjecting such exercise, discharge or execution to the control, sanction or confirmation of the Governor-General in Council" were omitted by the Adaptation Order of 1937.

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[5] This word was substituted for the word "he" by the Adaptation Order of 1937.

[6] This word was substituted for the word "him" by *ibid.*

(*b*) appeals shall lie from the decrees or orders passed by any Court or officer under the provisions of the said Acts to such Courts or authorities and subject to such conditions as the [1][State Government of Madras] may by rules prescribe.

Levy of certain cesses.

4. (1) The [1][State Government of Madras] may, by notification in the [2][Official Gazette]—

(*a*) direct the levy of cesses on occupied lands in the said taluqas and in the said taluq of Bhadrachalam which shall constitute a fund or funds for the maintenance therein of roads and schools ;

(*b*) prescribe by whom, at what rates, in what instalments and at what times such cesses shall be payable and make rules for their assessment and collection, and for the administration of the fund or funds so formed ; and

(*c*) exempt any land from liability to pay the whole or any part of either of such cesses.

(2) Any cess levied under this section shall be recoverable as if it were an arrear of land-revenue :

Provided that the cesses levied under this section shall not in the aggregate exceed the tax which would be leviable on the same land under the Madras Local Boards Act, 1884,[3] if that Act were in force :

Mad. Act V of 1884.

Provided also that no cess shall be levied under this section on any land for any period for which any cess is levied on the same land for the same purpose under the provision of any settlement-record or any tax is levied on the same land under the Madras Local Boards Act, 1884.[3]

Mad. Act V of 1884.

Pending proceedings.

5. All proceedings pending at the commencement of this Regulation before any authority in the said taluqas shall be disposed of by such authority as the [1][State Government of Madras] may direct, and, save as aforesaid, shall be carried on as if this Regulation had not been passed.

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[1] The words "Provincial Government" were substituted for the words "Governor of Fort St. George in Council" by the Adaptation Order of 1937 and the word "State" was substituted for the word "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "Fort St. George Gazette" by the Adaptation Order of 1937.

[3] Repealed. *See* now the Madras District Boards Act, 1920 (Madras Act XIV of 1920).

(*Chapter I.—Preliminary.*)

REGULATION No. I OF 1912.

[THE LACCADIVE ISLANDS AND MINICOY REGULATION, 1912.]

[*22nd January 1912* ; *3rd February 1912.*]

A Regulation to declare the Law applicable to the Laccadive Islands and Minicoy.

WHEREAS it is expedient to declare the law applicable to the Laccadive Islands and Minicoy ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (1) This Regulation may be called the Laccadive Islands and Minicoy Regulation, 1912 ; and

(2) It extends to the Laccadive Islands and Minicoy.

Definitions.

2. In this Regulation, unless there is anything repugnant in the subject or context,—

(i) " the islands " mean the Laccadive Islands and Minicoy ;

(ii) " the Inspecting officer " means any officer directed by the [1][State Government] or Collector to inspect the islands or any of them ; [2][ ]

[3][(ii-*a*) ' amin ' includes a deputy amin when exercising any power or discharging any duty of an amin under this Regulation ;]

(iii) words and expressions used herein and defined in the Indian Penal Code have the same meaning respectively attributed to them in that Code. Central Act XLV of 1860.

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] The word " and " was omitted by section 2 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1949 (Madras Regulation I of 1949).

[3] This clause was inserted by section 2 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1949 (Central Regulation I of 1949).

(*Chapter II.—Law Applicable.*
Chapter III.—Criminal Justice.)

CHAPTER II.

LAW APPLICABLE.

Law applicable.

3. Notwithstanding anything in any enactment now in force, this Regulation, [1][the Bengal State Prisoners Regulation, 1818], the Madras State Prisoners Regulation, 1819, the State Prisoners Act, 1858, [2][the Indian Penal Code], [3][the Scheduled Districts Act, 1874, and to the extent specified in section 35 of this Regulation, the Code of Criminal Procedure, 1898] shall be the only enactments in force in the islands.

Central Act III of 1818. Central Act II of 1819. Central Act III of 1858. Central Act XLV of 1860. Central Act XIV of 1874. Central Act V of 1898.

CHAPTER III.

CRIMINAL JUSTICE.

4. [*Repealed by Central Regulation I of* 1926.]

Minor offences and punishment.

[4]5. [Whoever—

(*a*) uses abusive language to another,

(*b*) obstructs any person in seizing stray cattle,

(*c*) without reasonable cause fails to attend the kacheri when ordered to do so,

shall be punishable with imprisonment for a term which may extend to fifteen days, or with fine which may extend to fifteen rupees, or with both.]

6. [*Repealed by Central Regulation I of* 1926.]

Failure to give information of birth or death.

7. Whoever fails to give information of a birth or death in his house shall be punishable with fine which may extend to five rupees.

Failure to obey reasonable order of amin.

8. (1) Whoever, when ordered to do so by the amin,—

(*a*) fails to assist in launching or drawing up a boat.

(*b*) fails to attend when called upon to assist in protecting coconut plantations from the ravages of rats,

shall be punishable with fine which may extend to two rupees :

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[1] These words were inserted by the Adaptation Order of 1937.

[2] The words "the Indian Penal Code" were inserted by section 2 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Central Regulation I of 1926).

[3] These words and figures were substituted for the words and figures "and the Scheduled Districts Act, 1874" by section 3 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1949 (Madras Regulation I of 1949).

[4] Section 5 was substituted for the original section by section 4 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Central Regulation I of 1926).

(Chapter III.—Criminal Justice.)

Provided that a fine imposed under clause (*b*) may be refunded if the offender within forty-eight hours makes reparation to the satisfaction of the amin and assessors.

[1][(2) Whoever disobeys any reasonable order of an amin or other public servant, or acts in such a manner as to bring into contempt the authority of such amin or other public servant, shall, in cases not punishable under the Indian Penal Code or under sub-section (1) be punishable with imprisonment which may extend to fifteen days, or with fine which may extend to fifteen rupees, or with both.] Central Act XLV of 1860.

[2][**8-A.** * * * *]

Jurisdiction, powers and constitution of the Court of the amin; reference in certain cases to superior officer.

[3][**9.** (1) The local amin of each island shall have jurisdiction to try persons accused of any of the following offences in the island, namely :—

(*a*) offences specified in sections 5, 7 and 8 ;

(*b*) offences which, if committed in an area in which the Code of Criminal Procedure, 1898, is in force, would be triable by a Magistrate of the third-class under that Code, and offences punishable under section 224 or section 500 of the Indian Penal Code ; Central Act V of 1898. Central Act XLV of 1860.

(*c*) any other offence which the [4][State Government] [5][had] [6][before the commencement of Part III of the Government of India Act, 1935] by notification in the [7][Official Gazette] [8][declared] to be triable by an amin.

(2) The amin may inflict on persons found guilty of any of the offences triable by him under the provisions of sub-section (1) the punishment prescribed therefor :

Provided that he shall not pass any sentence of imprisonment exceeding fifteen days, or of fine exceeding fifteen rupees.

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[1] Sub-section (2) of section 8 was substituted for the original sub-section by section 6, of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Central Regulation I of 1926).

[2] This section was omitted by the Adaptation Order of 1937.

[3] Section 9 was substituted for the original section by section 8 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Central Regulation I of 1926).

[4] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[5] This word was substituted for " may " by the Adaptation Order of 1950.

[6] These words were inserted by the Adaptation Order of 1937.

[7] These words were substituted for " Fort St. George Gazette " by *ibid.*

[8] This word was substituted for " declare " by the Adaptation Order of 1950.

(Chapter III.—Criminal Justice.)

(3) For the conduct of trials under this section the amin shall sit with four or more assessors called karnavars in the islands. Such assessors shall be specially appointed by the Collector or Inspecting officer for life, subject to good behaviour.

(4) If the amin is of opinion that an accused person tried before him is guilty of an offence triable by him under the provisions of sub-section (1) and that such person ought to receive a more severe punishment than he is empowered to inflict, he shall submit his proceedings, and forward the accused, to the Inspecting officer or the Collector, who may pass such order as he thinks fit. If the Inspecting officer or the Collector finds the accused guilty of the offence, he may inflict any punishment prescribed therefor.]

Procedure of amin in criminal cases.

10. (1) The amin may take cognizance of cases on complaint or on his own initiative.

(2) In every case the amin shall make a memorandum of the evidence of the prosecution witnesses, the plea of the accused, and the evidence of the defence witnesses.

(3) The evidence shall be taken in the presence of the accused, and the accused and the complainant shall be allowed to cross-examine the witnesses for the other side.

(4) The amin shall deliver a written judgment, recording therein the opinions of the assessors sitting with him and the reasons for his own decision.

Procedure in cases not triable by amin.

[1][**10-A.** (1) When any offence other than an offence triable by an amin is committed, the local amin shall hold an investigation, and if a *prima facie* case is made out against any person, such person shall be charged before and tried by the Inspecting officer or the Collector, or any of the Collector's assistants empowered by the Collector by general or special order in this behalf.

(2) The Inspecting officer or the Collector or any of the Collector's assistants empowered under sub-section (1), when trying a case in accordance with the provisions of sub-section (1), shall, when the trial is held in the islands, sit with two or more island assessors.

Procedure of superior officers in criminal cases.

10-B. The procedure prescribed in section 10 shall, as far as may be, be applicable to trials held by the Inspecting officer or the Collector or any of the Collector's assistants under the provisions of sub-section (1) of section 10-A.

[1] Sections 10-A to 10-E were inserted by section 9 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Central Regulation I of 1926).

Security for keeping the peace and for good behaviour.

10-C. Whenever, after such inquiry as he thinks fit, the Inspecting officer or the Collector or any of the Collector's assistants empowered under sub-section (1) of section 10-A is satisfied that any person in the islands—

(*a*) is a habitual offender, or

(*b*) is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, or

(*c*) is so desperate and dangerous as to render his being at large without security hazardous to the community,

he may require such person to execute a bond, with sureties, for keeping the peace or for his good behaviour for such period not exceeding three years as he thinks fit to fix.

Imprisonment in default of security.

10-D. If any person required to give security under section 10-C does not give such security, he shall be committed to prison or, if he is already in prison, be detained in prison until the period fixed under section 10-C expires, or until within such period he gives the security. Imprisonment for failure to furnish security may be either simple or rigorous.

Power of superior officers to cancel bonds or to release from prison.

10-E. The Collector, or, subject to the control of the Collector, the Inspecting officer, may at any time cancel any bond for keeping the peace or for good behaviour executed under section 10-C or section 10-D, or may release from prison any person imprisoned for failure to give security.]

Withdrawal or transfer by Collector.

11. (1) The Collector may withdraw to his own file any case pending before the Inspecting officer or an amin.

(2) The Collector may transfer any case pending before himself or before the Inspecting officer to any of [1][the Collector's assistants] for trial.

(3) The Inspecting officer may withdraw to his own file any case pending before an amin.

Appeals from decisions of amin.

12. From any sentence or order passed by an amin an appeal shall lie either to the Collector or the Inspecting officer in cases in which the Collector or the Inspecting officer grants special leave to appeal.

Appeals from decision of the Island Inspecting officer or Collector's Assistant.

13. Any person convicted by the Inspecting officer or by a [2][Collector's assistant] may appeal (*a*) to the High Court if the sentence is one of death or of imprisonment for five years or upwards, and (*b*) to the Collector in other cases if the sentence exceeds three months' imprisonment or one hundred rupees fine.

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[1] The words "the Collector's assistants" were substituted for the words "his Divisional officers" by section 10 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Central Regulation I of 1926).

[2] The words "Collector's assistant" were substituted for the words "Divisional officer" by section 11, *ibid.*

(*Chapter III.—Criminal Justice.*)

Appeals from the Collector.

14. [1][From any sentence exceeding three months' imprisonment or one hundred rupees fine or any order][2][other than an order under section 10-C or section 10-D] passed by the Collector as a Court of original criminal jurisdiction an appeal shall lie to the High Court.

No second appeals.

15. No second appeal shall lie in any case whatever.

Provision as to stamps.

16. Every appeal shall be stamped with an eight-anna stamp, and shall be accompanied by a copy on stamped copy paper of the judgment or order appealed against:

Provided that nothing in this section shall apply to an appeal by a prisoner.

Limitation of appeal.

17. Every appeal shall be filed within six months from the date of the judgment or order appealed against:

Provided that the months of June, July, August and September shall be excluded in reckoning such period.

Representation of parties.

18. No pleader shall be allowed in any Court except with the special permission of the Collector. Parties may, however, be represented by their island mukhtyars.

Debarring of mukhtyar in certain cases.

[3][**18-A.** (1) If a mukhtyar has, in the opinion of not less than two-thirds of the karnavars of the island appointed under sub-section (3) of section 9, failed to conduct himself in a proper manner, they may by order debar him from acting as a mukhtyar except for his relatives.

(2) If any question arises whether a mukhtyar is or is not a relative of a party, it shall be decided by the amin.

(3) An appeal shall lie to the Collector or to the Inspecting officer from any order debarring a mukhtyar under sub-section (1) or from any decision of the amin under sub-section (2).

(4) The provisions of sections 15 to 17 shall apply to an appeal under sub-section (3).]

Powers-of-attorney.

19. Every mukhtyar, appearing before a Court on the mainland on behalf of a party in the islands, must produce a stamped mukhtyarnama or power-of-attorney bearing a court-fee stamp of eight annas.

Detention of convicts in common jail in certain cases.

20. Any person convicted of a criminal offence and sentenced to a term of imprisonment exceeding two months by a Court on the islands, or to any term of imprisonment by a Court on the mainland, may be sent for imprisonment to the Cannanore Central Jail.

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[1] These words were substituted for "From any sentence or order" by section 4 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1949 (Madras Regulation I of 1949).

[2] These words were inserted by section 12 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Central Regulation I of 1926).

[3] This section was inserted by section 2 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1941 (Madras Regulation I of 1941).

CHAPTER IV.

CIVIL JUSTICE.

Law to be administered in civil courts.

21. All questions relating to any rights claimed or set up in the Civil Courts of the islands shall be determined in accordance with any custom not manifestly unjust or immoral governing the parties or property concerned, and in the absence of any such custom, according to justice, equity and good conscience.

Period of limitation for suits.

[1][**21-A.** Every suit instituted after a period of three years from the date on which the cause of action arose shall be dismissed, although limitation has not been set up as a defence :

Provided that this section shall not apply to suits instituted before or within one year after the commencement of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926.]

Constitution of Civil Courts.

22. The local amin of each island sitting with four or more assessors shall be the Civil Court for the island, and shall have jurisdiction over all civil claims arising therein.

Commencement of suit.

23. Every suit shall be commenced by presenting a plaint to the amin having jurisdiction over the suit.

Transferred suits.

24. The Collector or the Inspecting officer may transfer any civil suit to his own file and shall then proceed to try it sitting with two or more of the island assessors. The Collector may transfer any such suit from his own file to that of any of his [2] [assistants] who shall proceed to try the case with two or more such assessors.

Reference to assessors.

25. (1) The Collector or the Inspecting officer may refer any case for disposal or report to two or more of the island assessors. When it is referred for disposal, the assessors shall report their decision to the Court referring the case.

(2) The parties may challenge any assessor, and on sufficient reason being given another assessor shall be selected in his place.

(3) The parties shall be allowed to attend the hearing of the suit in person or by a mukhtyar, and the evidence shall be taken in open Court.

(4) The officer trying the suit shall make a memorandum of the evidence of each witness as it is given, and shall, after the conclusion of the hearing, pronounce judgment in

[1] Section 21-A was inserted by section 13 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Central Regulation I of 1926).

[2] The word "assistants" was substituted for the words "Divisional officers" by section 14, *ibid.*

open Court either in the presence of the parties or after notice to them. The judgment shall be in writing and shall contain the points for determination and the decision thereon.

Appeals.

26. (1) An appeal shall lie from the decision of the amin to the Inspecting officer or to the Collector. The Collector may transfer any such appeal to the Inspecting officer or [1][one of the Collector's assistants] for disposal.

(2) No appeal shall ordinarily lie from a decision of the Inspecting officer in the exercise of his original jurisdiction, but an appeal may be admitted by the Collector if sufficient grounds are shown. From a decision of a [2][Collector's assistant] in the exercise of his original jurisdiction on appeal shall lie to the Collector.

(3) Save as otherwise provided in section 31, an appeal shall lie to the High Court from any decision of the Collector in the exercise of his original jurisdiction.

Application of certain sections to civil cases.

27. The provisions of sections 15, 16, 17, 18, [3] [18-A] and 19 shall also apply to civil cases.

Execution of decrees.

28. All decrees shall ordinarily be executed by the amin of the island where the suit was instituted. But the Collector or the Inspecting officer may execute his own decrees if convenient.

Resistance to execution.

29. If a judgment-debtor wilfully refuses to obey the decree of the Court, he shall be liable to punishment under section 8, sub-section (2), and where the amin is of opinion that such punishment is inadequate, the procedure prescribed in section 9 [4] [sub-section (4)], shall be followed.

Attachment and sale.

30. Cases in which attachment and sale of property is found necessary shall be reserved for the Inspecting officer, who shall attach the property of the judgment-debtor and sell it in execution of the decree.

Service of process.

31. Decrees or processes issued by a main land Court against an islander, or by one island Court against a person residing in another island, shall be forwarded to the Collector for execution; and he shall cause it to be executed unless for reasons to be recorded in writing he may consider execution

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[1] The word "one of the Collector's assistants" were substituted for the words "any other of his Divisional Officers" by section 15 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Central Regulation I of 1926).

[2] The words "Collector's assistant" were substituted for the words "Divisional officer" by *ibid.*

[3] These figures and letter were inserted by section 3 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1941 (Madras Regulation I of 1941).

[4] The word and figure "sub-section (4)" were substituted for "sub-section (3)" by section 16 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Central Regulation I of 1926).

inadvisable, in which case he may refuse to execute it. In the case of any such refusal an appeal shall lie to the [1][State Government].

Saving of inherent powers of Civil Court.

32. Nothing in this Regulation shall be deemed to limit or otherwise affect the inherent power of a Civil Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the powers of the Court.

CHAPTER V.

MISCELLANEOUS.

Power of State Government to exclude from any island persons not natives of that island.

[2] [**33.** The [1][State Government] may by order—

(*a*) prohibit any person from visiting or taking up his residence in an island of which he is not a native, and

(*b*) require any person to leave an island of which he is not a native,

and may make such rules as [3][they deem] fit to carry out the purposes of this section.]

Power of Collector to send police force from the mainland to the islands.

[4] [**34.** (1) The Collector may, whenever he considers it necessary, by order, direct such number of Police officers as he deems fit, to proceed to the islands and remain there for such period as may be specified in the order.

(2) The Collector himself, or any Magistrate specified by him in this behalf, may proceed to and remain in the islands during the period aforesaid or any part thereof:

(3) The Collector may cancel, or from time to time modify, any order issued by him under sub-section (1).]

Application of sections 127 to 132 of the Code of Criminal Procedure to the islands.

[4]**35.** So long as an order issued under sub-section (1) of section 34 remains in force, the provisions of Chapter IX of the Code of Criminal Procedure, 1898, shall apply to the islands with the substitution (*a*) for the references to 'Magistrate' and 'Magistrate of the highest rank' occurring therein, of references to the Collector or Magistrate, who is for the time being in the islands in pursuance of sub-section (2) of that section and (*b*) for the references to 'officer in charge of a police station,' of references to any police officer not

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] Section 33 was substituted for the original section by section 17 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1926 (Central Regulation I of 1926).

[3] These words were substituted for the words "he deems" by the Adaptation Order of 1937.

[4] Sections 34 to 36 were added by section 5 of the Laccadive Islands and Minicoy (Amendment) Regulation, 1949 (Madras Regulation I of 1949).

(*Chapter V.—Miscellaneous.*)

below the rank of Sub-Inspector, who is for the time being in the islands in pursuance of the order aforesaid.

Deputy amin to exercise the powers and perform the duties of an amin in certain cases.

36. The [1] [State] Government may, from time to time, by general or special order, authorize any deputy amin to exercise such of the powers or discharge such of the duties of an amin under this Regulation as may be specified in the order.

PART IV.

UNREPEALED MADRAS REGULATIONS MADE UNDER SUB-SECTION (2) OF SECTION 92 OF THE GOVERNMENT OF INDIA ACT, 1935, AND PARAGRAPH 5 (2) OF THE FIFTH SCHEDULE TO THE CONSTITUTION OF INDIA.

MADRAS REGULATION No. I OF 1937.

[THE MADRAS AGENCY RULES (AMENDMENT) REGULATION, 1937.]

[*21st December 1937.*]

A Regulation to amend the Madras Agency Rules for certain purposes.

WHEREAS it is expedient to amend the rules made under section 6 of the Scheduled Districts Act, 1874 (XIV of 1874), for the administration of the Agency tracts of the Province of Madras and for the regulation of the procedure of the officers appointed to administer them for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This regulation may be called the Madras Agency Rules (Amendment) Regulation, 1937.

Amendment of certain provisions of the Agency Rules.

2. In the rules made under section 6 of the Scheduled Districts Act, 1874 (XIV of 1874), for the administration of the Agency tracts of the [2] [State] of Madras and for the regulation of the procedure of the officers appointed to administer them (hereinafter referred to as the said rules), for the words " Agents to the Governor " and " Agent to the Governor " wherever they occur the words " Agents to the [1] [State] Government " and " Agent to the [1] [State] Government " shall respectively be substituted.

[1] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

[2] This word was substituted for the word " Province " by *ibid.*

Amendment of rule I of the Agency Rules.

3. In rule 1 of the said rules—

(i) in sub-rule (1), for the words "non-scheduled districts of the Madras Presidency" the words "ordinary tracts of the [1][State] of Madras" shall be substituted;

(ii) in sub-rule (2), for the words "non-scheduled districts of the Madras Presidency" the words "ordinary tracts of the [1][State] of Madras" shall be substituted; and

(iii) in sub-rule (3), for the words "sanction of Government" the words "sanction of the [2][State] Government" and for the words "non-scheduled districts of the Madras Presidency" the words "ordinary tracts of the [1][State] of Madras" shall be substituted.

Amendment of rule 5 of the Agency Rules.

4. In the second proviso to sub-rule (1) of rule 5 of the said rules for the words "sanction of Government" the words "sanction of the [2][State] Government" shall be substituted.

Amendment of rule 12 of the Agency Rules.

5. In rule 12 of the said rules, for the words "sanction of the Government" the words "sanction of the [2][State] Government" shall be substituted.

Amendment of rule 24 of the Agency Rules.

6. In the proviso to rule 24 of the said rules for the words "Governor in Council" the words [2][State] Government" shall be substituted.

Amendment of rule 31 of the Agency Rules.

7. In clause (*cc*) of the last paragraph of rule 31 of the said rules, for the words "assumption by the Government" the words "assumption by the [3][Government]" shall be substituted.

Amendment of rule 33 of the Agency Rules.

8. In rule 33 of the said rules, for the words "sanction of Government" the words "sanction of the [2][State] Government" shall be substituted.

Amendment of rule 34 of the Agency Rules.

9. In rule 34 of the said rules, for the words "Governor in Council" the words "[2][State] Government" shall be substituted.

Amendment of rule 35 of the Agency Rules.

10. In the proviso to rule 35 of the said rules, for the words "Governor in Council" the words "[2][State] Government" shall be substituted.

Amendment of rule 44 of the Agency Rules.

11. In rule 44 of the said rules—

(i) in sub-rule (1), for the words "sanction of Government" the words "sanction of the [2][State] Government" shall be substituted; and

(ii) in sub-rule (2), for the words "approval of Government" the words "approval of the [2][State] Government" shall be substituted.

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[1] This word was substituted for the word "Province" by the Adaptation Order of 1950.

[2] This word was substituted for the word "Provincial" by *ibid.*

[3] This word was substituted for the word "Crown" by *ibid.*

Amendment of rule 59 of the Agency Rules.

12. In rule 59 of the said rules, for the words " the Government " the words " the [1][State] Government " shall be substituted.

Amendment of rule 60 of the Agency Rules.

13. In rule 60 of the said rules, for the words " the Government " the words " the [1][State] Government " shall be substituted.

Amendment of rule 61 of the Agency Rules.

14. In rule 61 of the said rules, for the words " sanction of Government " the words " sanction of the [1][State] Government " shall be substituted.

Amendment of rule 62 of the Agency Rules.

15. In rule 62 of the said rules, for the words " order of the Government " the words " order of the [1][State] Government " shall be substituted.

Amendment of rule 63 of the Agency Rules.

16. In sub-rule (2) of rule 63 of the said rules, for the words " non-scheduled districts of the Madras Presidency " in the two places where they occur, the words " ordinary tracts of the [2][State] of Madras " shall be substituted.

Amendment of rule 64 of the Agency Rules.

17. In rule 64 of the said rules—

(i) in sub-rule (1), for the word " Government " the words " the [1][State] Government " shall be substituted ; and

(ii) in sub-rule (2), for the words " the Government " in the two places where they occur, the words " the [1][State] Government " shall be substituted.

Amendment of the Aunaxure to the

18. In the Annexure to the said rules—

(i) in List No. I—

(*a*) in the heading, for the words " the Government " the words " the [1][State] Government " shall be substituted ; and

(*b*) in Note (*a*), for the word " Government " wherever it occurs the words " the [1][State] Government " shall be substituted ;

(ii) in the heading of List No. II, for the words " the Government " the words " the [1][State] Government " shall be substituted ; and

(iii) in List No. III—

(*a*) in item (3) for the words " the Government " the words " the [1][State] Government " shall be substituted ; and

(*b*) after item (13) the following item shall be added, namely :—

" (14) Excise (Matters delegated to the Board of Revenue)."

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[1] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

[2] This word was substituted for the word " Province " by *ibid.*

MADRAS REGULATION No. II OF 1939.

[THE MADRAS AGENCY RULES (AMENDMENT) REGULATION 1939.]

[*19th December 1939.*]

A Regulation to amend the Madras Agency Rules for a certain purpose.

WHEREAS it is expedient to amend the rules made under section 6 of the Scheduled Districts Act, 1874, for the administration of the Agency tracts of the Province of Madras and for the regulation of the procedure of the officers appointed to administer them for the purpose hereinafter appearing; It is hereby enacted as follows :— Central Act XIV of 1874.

Short title.

1. This Regulation may be called the Madras Agency Rules (Amendment) Regulation, 1939.

Amendment of rule 21 of the Agency Rules.

2. For the provisos to sub-rule (1) of rule 21 of the rules made under section 6 of the Scheduled Districts Act, 1874, for the administration of the Agency tracts of the [1][State] of Madras and for the regulation of the procedure of the officers appointed to administer them the following provisos shall be substituted, namely :— Central Act XIV of 1874.

" Provided that nothing contained in this sub-rule shall apply to an advocate entered in the roll of advocates of the High Court of Judicature at Madras under the Indian Bar Councils Act, 1926, and they shall be entitled as of right to practise in the Court of the Agent to the [2][State] Government and in all Courts subordinate to him : Central Act XXVIII of 1926.

Provided further that sanads shall not ordinarily be refused to vakils of the High Court of Judicature at Madras or to advocates and vakils of any other High Court and in the case of such refusal reasons shall be recorded in writing by the Agent to the [2][State] Government :

Provided further that persons not qualified to practise in courts under the Legal Practitioners Act, 1879, shall not be allowed to appear except in Agency Munsif's Courts." Central Act. XVIII of 1879.

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[1] This word was substituted for the word " Province " by the Adaptation Order of 1950.

[2] This word was substituted for the word " Provincial " by *ibid.*

MADRAS REGULATION No. I OF 1940.

[THE MADRAS (PARTIALLY EXCLUDED AREAS) VILLAGE COURTS REGULATION, 1940.]

[*5th March 1940*]

A Regulation to extend the provisions of the Madras Village Courts Act, 1888, with certain modifications to the partially excluded areas in the Province of Madras.

WHEREAS it is expedient to extend the provisions of the Madras Village Courts Act, 1888, with certain modifications to the partially excluded areas in the Province of Madras; It is hereby enacted as follows :—

Madras Act I of 1889.

Short title, extent and commencement.

1. (1) This Regulation may be called the Madras (Partially Excluded Areas) Village Courts Regulation, 1940.

(2) It extends to the whole of the [1][Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts].

(3) (*a*) This section shall come into force in the whole of the [1][Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts] at once.

(*b*) The rest of this Regulation shall come into force—

(i) in the [2][Scheduled Areas] in the Golugonda taluk of the [3][Visakhapatnam] district at once; and

(ii) [4][in any other Scheduled Area in the said districts] on such date as the [5][State] Government may, by notification in the Official Gazette, appoint.

(4) The [6][State] Government may, by notification in the Official Gazette from time to time, withdraw any village or area from the operation of this Regulation and cancel such notification.

Procedure for suits and decrees pending in area withdrawn from Regulation.

2. When any village or area is withdrawn from the operation of this Regulation, all suits pending in a village court therein shall be heard and determined, and all decrees passed by such court and remaining unexecuted shall be executed by the civil court which, if the suit were about to be instituted, would have jurisdiction to try it.

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[1] This word was substituted for the word "Provincial" by *ibid.*

[2] These words were substituted for the words "partially excluded areas" by the Adaptation (Amendment) Order of 1950.

[3] This word was substituted for the word "Vizagapatam" by *ibid.*

[4] These words were substituted for the words "in any other local area in the partially excluded areas in the Province of Madras" by *ibid.*

[5] These words were substituted for the words "partially excluded areas" in the Province of "Madras" by the Adaptation (Amendment) Order of 1950.

[6] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

Such suits shall be tried and such decrees shall be executed as suits instituted in, and decrees passed by, such civil court.

Extension of sections 5 to 78 of Madras Act I of 1889 to the Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts with certain modifications.

3. Sections 5 to 78 of the Madras Village Courts Act, 1888 (hereinafter referred to as the said Act), shall apply to the [1][Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts], subject to the following modifications, namely :—

(i) in section 5 of the said Act—

(*a*) for the definition of " Village " the following definition shall be substituted, namely :—

" ' Village ' means in a permanently settled estate a local area for which a village court has been established under this Act ; and elsewhere a local area recognized by the [2][State] Government from time to time as a village for purposes of collecting the land revenue " ; and Madras Act I of 1889.

(*b*) for the definition of " District Munsif " the following definition shall be substituted, namely :—

" ' District Munsif ' means the Agency Munsif within the local limits of whose jurisdiction the village is situated :

Provided that if the village is not situated within the local limits of the jurisdiction of any Agency Munsif the District Judge shall be deemed to be the District Munsif " ;

(ii) for section 8 of the said Act, the following section shall be substituted, namely :—

" 8. The Collector of the district may suspend or remove a village munsif or a member of a panchayat court for incapacity, neglect of duty, misconduct or other just and sufficient cause.

From every order of suspension or removal an appeal may be made within three months to the Board of Revenue. The decision of the Board of Revenue on all such appeals shall be final " ; and

(iii) in section 20 of the said Act, for the words and figures " Indian Limitation Act, 1877 " the words and figures, " Indian Limitation Act, 1908 " shall be substituted.

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[1]These words were substituted for the words " partially Excluded areas in the Province of Madras " by the Adaptation (Amendment) Order of 1950.

[2]This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

MADRAS REGULATION No. III OF 1940.

[THE MADRAS AGENCY DEBT BONDAGE ABOLITION REGULATION, 1940.]

[*9th July 1940.*]

A Regulation to abolish the system of debt bondage and to make provision regarding agreements for the performance of certain kinds of labour in the partially excluded areas in the Province of Madras.

WHEREAS it is expedient to abolish the system of debt bondage, called 'gothi' existing in the partially excluded areas in the Province of Madras ;

AND WHEREAS it is expedient to limit the period and regulate the terms of, and otherwise to make provision regarding, agreements for the performance of unskilled manual labour in those areas ; It is hereby enacted as follows :—

Short title and extent.

1. (1) This Regulation may be called the Madras Agency Debt Bondage Abolition Regulation, 1940.

(2) It extends to the whole of the [1][Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts].

Definitions.

2. In this Regulation unless there is anything repugnant in the subject or context—

(i) 'advance' means an advance of money or in kind or partly of money and partly in kind and includes any transaction which is substantially an advance ;

(ii) 'Agent' means the Agent to the Government of Madras ;

(iii) 'employer' means a person for whom a labourer is under the terms of an agreement bound to perform labour ;

(iv) 'gothi agreement' means an agreement written or oral, or partly written and partly oral, wherein the consideration for the performance of labour by any person is a debt due by that person and the interest, if any, on such debt and includes any transaction which is substantially such an agreement ;

(v) 'labour' means agricultural labour, and includes domestic service or labour whether indoor or outdoor ;

(vi) 'labour agreement' means an agreement written or oral, or partly written and partly oral, wherein the consideration for the performance of labour by any person is or includes an advance exceeding the equivalent of one month's fair and equitable remuneration made or to be made to such person or at his request to some one else and the interest, if any, on such advance ; and

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[1]These words were substituted for the words "partially excluded areas in the Province of Madras" by the Adaptation (Amendment) Order of 1950.

(vii) 'labourer' means a person who under the terms of an agreement is bound to perform labour.

Future gothi agreement void.

3. A gothi agreement entered into after the commencement of this Regulation shall be wholly void.

Future labour agreement unless satisfies certain conditions void.

4. A labour agreement entered into after the commencement of this Regulation shall be wholly void—

(i) if the full terms of the agreement between the parties are not expressed in writing or if a copy of such agreement is not filed in the office of the Agency Divisional Officer or any other authority appointed by the [1][State] Government in that behalf; or

(ii) if the advance with the interest thereon, if any, is not a fair and equitable remuneration of the labourer for the period during which he has to perform labour; or

(iii) if the period express or implied during which the labour is to be performed exceeds or might in any possible event exceed one year; or

(iv) where provision is made for interest, if the interest provided is not simple interest at a rate not exceeding six and one-fourth per cent per annum.

Explanation.—For the purpose of this Regulation remuneration shall not be deemed to be fair and equitable if it is less than the amount which the [1][State] Government may from time to time by notification fix or, where the amount has not been so fixed if it is less than seven rupees a month where the labourer is not fed by the employer or four rupees a month where the labourer is fed by the employer.

Liability to perform labour extinguished on the expiry of the period specified in the agreement.

5. All liability to perform labour under a valid labour agreement shall be extinguished on the expiry of the period specified in such agreement.

Right of labourer to pay off amount due and free himself from the obligation to perform labour.

6. A labourer shall be at liberty to pay off any balance due out of the advance together with the interest thereon, if any, at any time during the subsistence of a valid labour agreement, and free himself of any obligation to perform labour under the agreement.

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[1]This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

7. A labourer who has entered into a labour agreement shall not be bound to execute any other document in respect of the advance or interest thereon. If any other document is executed by a labourer, it shall be wholly void. Collateral agreement by a labourer void.

8. Every labour agreement referred to in section 4 shall lapse on the death of the labourer and no liability under the labour agreement shall survive against the estate of the deceased labourer or against any of his heirs. Labour agreement void on death of labourer and liability to labour extinguished.

9. (1) A gothi or labour agreement subsisting at the commencement of this Regulation shall be wholly void unless its terms are settled, as though it were a labour agreement entered into after the commencement of this Regulation, under sub-section (2) and a copy thereof as so settled is filed in the office of the Agency Divisional Officer or any authority appointed by the [1][State] Government under clause (i) of section 4. Special provisions in respect of subsisting gothi and labour agreements.

(2) Any party to a gothi or labour agreement subsisting at the commencement of this Regulation may apply to any officer empowered by the [1][State] Government in that behalf for the settlement of the terms of such agreement and such officer shall settle the terms of such agreement as though it were a labour agreement entered into after the commencement of this Regulation and such settlement shall be binding on the parties to the agreement. A copy of the agreement as so settled shall be filed in the office of the Agency Divisional Officer or any authority appointed by the [1][State] Government under clause (i) of section 4.

10. Whoever obtains labour from a person in pursuance of an agreement which is void under this Regulation shall be punished with fine which may extend to two hundred rupees or in default with imprisonment of either description which may extend to six months. Penalty for obtaining labour in pursuance of a void agreement.

11. Any employer who— Other penalties.

(i) fails to file in the office of the Agency Divisional Officer, or any authority appointed under clause (i) of section 4 a copy of a labour agreement entered into after the commencement of this Regulation, or of a gothi or labour agreement, the terms of which have been settled under sub-section (2) of section 9 ; or

(ii) fails to pay the labourer his remuneration or fails to feed him when according to the terms of the agreement he is bound to feed the labourer[1] ;

[1]This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

shall be punished with fine which may extend to two hundred rupees or in default with imprisonment of either description which may extend to six months.

Termination of agreement by employer.

12. (1) If, during the period of a valid labour agreement or of a gothi or labour agreement settled under sub-section (2) of section 9, a labourer without just cause withholds the stipulated labour or does not perform it with reasonable assiduity, the employer may give to the labourer one month's notice in writing of his intention to terminate the agreement and file a copy of such notice in the office of the Agency Divisional Officer or other authority in which a copy of the original agreement was filed. On the expiration of one month from the date of such notice or of filing the copy thereof as aforesaid, whichever is later, the agreement shall terminate and thereupon the employer may apply to the Agency Divisional Officer for the recovery of the money value of the labour withheld or not performed till the termination of the agreement and the balance of the principal of the advance or of the debt due on the date of the termination of such agreement together with interest thereon if any.

(2) If upon such application it is proved to the satisfaction of the Agency Divisional Officer that the labourer without just cause has withheld the stipulated labour or did not perform it with reasonable assiduity he may pass an order directing the labourer to pay the employer such sum not exceeding the money value of the labour withheld or not performed till the termination of the agreement and the balance of the principal of the advance or of the debt due on the date of the termination of the agreement together with the interest if any.

(3) Any sum payable to the employer under an order made under sub-section (2) may be recovered on application to the Magistrate having jurisdiction where the labourer by whom the money is payable is for the time being resident, by the distress and sale of any movable property belonging to the labourer which is within the limits of the Magistrate's jurisdiction.

Trial of offences.

13. No offence made punishable by or under this Regulation shall be tried by a court inferior to that of the Agency Divisional Officer.

Institution of prosecution and composition of offences.

14. (1) No prosecution for an offence under this Regulation shall be instituted except by an officer of the Land Revenue Department not below the rank of Deputy Tahsildar.

(2) Any such officer may accept from any person reasonably suspected of having committed an offence under this Regulation a sum of money by way of composition for the offence. On payment of such sum of money to such officer no further proceedings shall be taken against such person in respect of such offence.

Appeals.

15. From any sentence of fine exceeding fifty rupees an appeal shall lie to the Agent. Such appeal shall be preferred within thirty days from the date of the sentence appealed against.

Decision of disputes.

16. (1) If any dispute arises between the employer and the labourer in respect of a valid labour agreement or of a gothi or labour agreement settled under sub-section (2) of section 9, the Tahsildar or Deputy Tahsildar having jurisdiction may on the application of the employer or labourer decide such dispute and pass such order as he may deem fit and every such order shall be binding on the employer and the labourer.

(2) Any sum payable under an order made under sub-section (1) may be recovered on application to the Magistrate having jurisdiction where the person by whom the money is payable is for the time being resident, by the distress and sale of any movable property belonging to that person which is within the limits of the Magistrate's jurisdiction.

(3) The Agency Divisional Officer may revise any order passed under this section by a Tahsildar or Deputy Tahsildar.

Revision by Agent.

17. The Agent may revise any order or sentence passed under this Regulation against which no appeal lies.

Orders of Agent final.

18. The orders of the Agent passed on appeal or revision shall, subject to the provisions of section 19, be final.

Revision by State Government

19. The [1][State] Government may revise any order of the Agent passed on appeal or revision.

Exemption from fees.

20. No fee shall be charged in connexion with any document, complaint, application or appeal filed by a member of a hill tribe under this Regulation.

Explanation.—For the purpose of this section the expression "hill tribe" shall have the same meaning as in clause (*c*) of section 2 of the Agency Tracts Interest and Land Transfer Act, 1917.

Madras Act I of 1917.

Jurisdiction of civil court barred.

21. No civil court shall have jurisdiction in any matter arising under this Regulation.

Rules.

22. The [1][State] Government may make rules to carry out all or any of the purposes of this Regulation not inconsistent therewith.

Saving.

23. Nothing contained in this Regulation shall apply to the grant of advances to labourers not exceeding the equivalent of one month's fare and equitable remuneration.

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[1] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

MADRAS REGULATION No. IV OF 1940.

[THE MADRAS AGENCY RULES (AMENDMENT) REGULATION, 1940.]

[*1st October 1940.*]

A Regulation further to amend the Madras Agency Rules for a certain purpose.

WHEREAS it is expedient further to amend the rules made under section 6 of the Scheduled Districts Act, 1874, for the administration of the Agency tracts of the Province of Madras and for the regulation of the procedure of the officers appointed to administer them, for the purpose hereinafter appearing; It is hereby enacted as follows :— Central Act XIV of 1874.

Short title. **1.** This Regulation may be called the Madras Agency Rules (Amendment) Regulation, 1940.

Amendment of rule 63 of the Agency Rules. **2.** In sub-rule (2) of rule 63 of the rules made under section 6 of the Scheduled Districts Act, 1874, for the administration of the Agency tracts of the [1][State] of Madras and for the regulation of the procedure of the officers appointed to administer them, after the second paragraph the following proviso shall be inserted, namely :— Central Act XIV of 1874.

"Provided that nothing contained in this sub-rule shall affect the appellate powers vested in the Board of Revenue by or under the Central Provinces Land Revenue Act, 1881, in the case of village officers in the Nugur taluk of the East Godavari district who are governed by the provisions of the said Act." Central Act XVIII of 1881.

MADRAS REGULATION No. V OF 1940.

[THE MADRAS (PARTIALLY EXCLUDED AREAS) COURT OF WARDS REGULATION, 1940.]

[*12th November 1940.*]

A Regulation to extend the provisions of the Madras Court of Wards Act, 1902, with certain modifications to the partially excluded areas in the Province of Madras.

WHEREAS it is expedient to extend the provisions of the Madras Court of Wards Act, 1902, with certain modifications Madras Act I of 1902.

[1]This word was substituted for the word "Province" by the Adaptation Order of 1950.

to the partially excluded areas in the Province of Madras ; It is hereby enacted as follows :—

Short title and extent.

1. (1) This Regulation may be called the Madras (Partially Excluded Areas) Court of Wards Regulation, 1940.

(2) It extends to the whole of the [1][Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts].

Extension of sections 2 to 67 of Madras Act I of 1902 to the Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts with certain modifications.

2. Sections 2 to 67 of the Madras Court of Wards Act, 1902 (hereinafter referred to as the said Act), shall apply to the whole of the [1][Scheduled Areas to which this Regulation extends] subject to the following modifications, namely :—

Madras Act I of 1902.

(i) in section 4 of the said Act, after the definition of 'Proprietor' the following definition shall be added, namely :—

"'Agency Rules' means the rules made under section 6 of the Scheduled Districts Act, 1874, for the administration of the Agency tracts of the [2][State] of Madras and for the regulation of the procedure of the officers appointed to administer them as amended by Regulations made under sub-section (2) of section 92 of the Government of India Act, 1935, [3][or under sub-paragraph (2) of paragraph 5 of the Fifth Schedule to the Constitution]" ;

(ii) in section 12 of the said Act, for the words and figures "the Madras Local Boards Act, 1884", the words and figures "the Madras Local Boards Act, 1920"[4] shall be substituted ;

(iii) in section 35 of the said Act,—

(*a*) the words "In so far as it may be consistent with the provisions for the time being in force of this or any other Act or of any rule or with the customary law" shall be inserted at the commencement ; and

(*b*) the words "not inconsistent with the provisions of this or any other Act for the time being in force" shall be omitted ;

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[1] These words were substituted for the words "partially excluded areas in the Province of Madras" by the Adaptation (Amendment) Order of 1950.

[2] This word was substituted for the word "Province" by the Adaptation Order of 1950.

[3] These words and figures were added by the Adaptation (Amendment) Order of 1950.

[4] Now the Madras District Boards Act, 1920 (Madras Act XIV of 1920.)

(iv) in section 43 of the said Act,—

(*a*) in sub-section (3), for the words and figures "under the Madras Rent Recovery Act, 1865" the words "under any law for the time being in force" shall be substituted; and

(*b*) in sub-section (4), for the words "Code of Civil Procedure" the words "Agency Rules" shall be substituted;

(v) in section 45 of the said Act,—

(*a*) in sub-section (2), for the words "the Code of Civil Procedure" the words "the Agency Rules or any other law for the time being in force" shall be substituted; and

(*b*) in sub-section (3), the words and figures "including the powers of the civil court under sections 294 and 312 of the Code of Civil Procedure" shall be omitted and for the words "under the Code of Civil Procedure or other law" the words "under any law" shall be substituted;

(vi) in section 47 of the said Act, for the words and figures "sections 321, 322, 322-A, 322-B, 322-C, 322-D, 323, 324, 324-A, 325, 325-A, 325-C of the Code of Civil Procedure" the words and figures "rules 1 to 11 and 13 of the Third Schedule to the Code of Civil Procedure, 1908" shall be substituted; and

(vii) in section 53 of the said Act—

(*a*) in sub-section (1), for the words and figures "section 527 of the Code of Civil Procedure" the words and figures "rule 1 of Order XXXVI of the First Schedule to the Code of Civil Procedure, 1908" shall be substituted; and

(*b*) in sub-section (3), for the words and figures, "Chapter XXXVIII of the Code of Civil Procedure" the words and figures "Order XXXVI of the First Schedule to the Code of Civil Procedure, 1908" shall be substituted.

MADRAS REGULATION No. VI OF 1940.

[THE MADRAS (PARTIALLY EXCLUDED AREAS) GUARDIANS AND WARDS REGULATION, 1940.]

[*12th November 1940.*]

A Regulation to extend the provisions of the Guardians and Wards Act, 1890, with certain modifications to the portions of the partially excluded areas in the Province of Madras in which they are not in force.

WHEREAS it is expedient to extend the provisions of the Guardians and Wards Act, 1890, with certain modifications to Central Act VIII of 1890.

the portions of the partially excluded areas in the Province of Madras in which they are not in force; It is hereby enacted as follows :—

Short title and extent.

1. (1) This Regulation may be called the Madras (Partially Excluded Areas) Guardians and Wards Regulation, 1940.

Central Act VIII of 1890.

(2) It extends to the portions of the [1][Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts] in which the provisions of the Guardians and Wards Act, 1890, are not in force.

Central Act VIII of 1890.

Extension of sections 3 to 51 of Act VIII of 1890 to certain portions of the Scheduled Areas with certain modifications.

2. Sections 3 to 51 of the Guardians and Wards Act, 1890 (hereinafter referred to as the said Act), shall apply to the portions of the [1][Scheduled Areas to which this Regulation extends] in which they are not in force subject to the following modifications, namely :—

(i) in section 4 of the said Act,—

(*a*) in clause (4), after the words "Code of Civil Procedure" the figures "1908" shall be inserted;

(*b*) in clause (7), for the words and figures "Code of Criminal Procedure, 1882" the words and figures "Code of Criminal Procedure, 1898" shall be substituted and the word "and" occurring at the end shall be omitted; and

(*c*) after clause (8) the following word and clause shall be added, namely :—

"and

(9) 'Agency Rules' means the rules made under section 6 of the Scheduled Districts Act, 1874, for the administration of the Agency tracts of the [2][State] of Madras and for the regulation of the procedure of the officers appointed to administer them as amended by Regulations made under sub-section (2) of section 92 of the Government of India Act, 1935, [3][or under sub-paragraph (2) of paragraph 5 of the Fifth Schedule to the Constitution]";

(ii) in sub-section (1) of section 10 of the said Act, after the words "Code of Civil Procedure" the figures "1908" shall be inserted;

(iii) in clause (*a*) of sub-section (1) of section 11 of the said Act, for the words "Code of Civil Procedure" the words "Agency Rules" shall be substituted;

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[1] These words were substituted for the words "partially excluded areas in the Province of Madras" by the Adaptation (Amendment) Order of 1950.

[2] This word was substituted for the word "Province" by the Adaptation Order of 1950.

[3] These words and figures were added by the Adaptation (Amendment) Order of 1950.

(iv) in sub-section (2) of section 25 of the said Act, for the words and figures "section 100 of the Code of Criminal Procedure, 1882" the words and figures "section 100 of the Code of Criminal Procedure, 1898" shall be substituted;

(v) in sub-section (2) of section 36 of the said Act, for the words and figures "section 440 of the Code of Civil Procedure as amended by this Act" the words and figures "rule 20 of the Agency Rules" shall be substituted;

(vi) in sub-section (4) of section 43 of the said Act, for the words and figures "under section 492 or section 493 of the Code of Civil Procedure" the words and figures "under rule 1 or rule 2 of Order XXXIX of the First Schedule to the Code of Civil Procedure, 1908" shall be substituted;

(vii) in sub-section (2) of section 46 of the said Act, after the words "Code of Civil Procedure" the figures "1908" shall be added; and

(viii) in section 48 of the said Act, for the words and figures "section 622 of the Code of Civil Procedure" the words and figures "section 115 of the Code of Civil Procedure, 1908" shall be substituted.

Repeals.

3. The enactments mentioned in the Schedule as they stood on the first day of July 1890 are hereby repealed to the extent specified in the third column thereof.

THE SCHEDULE.

Enactments Repealed.

[*See* section 3.]

Number and year.	Title or subject.	Extent of repeal.
	Central Acts.	
XIV of 1858 ..	Minors (Madras)	The whole.
IX of 1861 ..	Minors	The whole.
VII of 1870 ..	Court-fees Act, 1870 ..	Section 19-H, and article 10 of Schedule I.
XIII of 1874.	European British Minors Act, 1874.	The whole.
XV of 1874 ..	Laws Local Extent Act, 1874.	So far as it relates to any enactment replaced by the Guardians and Wards Act, 1890.
XIV of 1882 ..	Code of Civil Procedure ..	The second paragraph of section 443.
	Madras Regulation.	
X of 1831 ..	Minors' Estates	Section 3.

MADRAS REGULATION No. VII OF 1940.

[THE MADRAS AGENCY RULES (SECOND AMENDMENT) REGULATION, 1940.]

[*12th November 1940.*]

A Regulation further to amend the Madras Agency Rules for a certain purpose.

WHEREAS it is expedient further to amend the rules made under section 6 of the Scheduled Districts Act, 1874, for the administration of the Agency tracts of the Province of Madras and for the regulation of the procedure of the officers appointed to administer them for the purpose hereinafter appearing; It is hereby enacted as follows :—

Central Act XIV of 1874.

1. This Regulation may be called the Madras Agency Rules (Second Amendment) Regulation, 1940. **Short title.**

2. Rules 61 and 62 of the rules made under section 6 of the Scheduled Districts Act, 1874, for the administration of the Agency tracts of the [1][State] of Madras and for the regulation of the procedure of the officers appointed to administer them shall be omitted. **Repeal of rules 61 and 62 of the Agency Rules.**

Central Act XIV of 1874.

MADRAS REGULATION No. VIII OF 1940.

[THE MADRAS (EXCLUDED AREAS) COINAGE REGULATION, 1940.]

[*7th January 1941.*]

A Regulation to apply the provisions of the Indian Coinage Act, 1906, and the notifications, orders and rules issued thereunder to the excluded areas in the Province of Madras.

WHEREAS it is expedient to apply the provisions of the Indian Coinage Act, 1906, and the notifications, orders and rules issued thereunder to the excluded areas in the Province of Madras ; It is hereby enacted as follows :—

Central Act III of 1906.

1. (1) This Regulation may be called the Madras (Excluded Areas) Coinage Regulation, 1940. **Short title and extent.**

(2) It extends to the whole of the [2][Scheduled Areas in the Malabar and South Kanara districts].

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[1] This word was substituted for the word "Province" by the Adaptation Order of 1950.

[2] These words were substituted for the words "excluded areas in the Province of Madras" by the Adaptation (Amendment) Order of 1950.

Application of the Indian Coinage Act, 1906, and the notifications, orders and rules issued thereunder to the Scheduled Areas in the Malabar and South Kanara districts.

2. The provisions of the Indian Coinage Act, 1906, and the notifications, orders and rules issued thereunder shall apply to the [1][Scheduled Areas in the Malabar and South Kanara districts]. Central Act III of 1906.

MADRAS REGULATION No. I OF 1942.

[THE MADRAS PARTIALLY EXCLUDED AREAS SALT (ADDITIONAL DUTY) REGULATION, 1942.]

[*12th May 1942.*]

A Regulation to extend the provisions of section 5 of the Indian Finance (Supplementary and Extending) Act, 1931, so far as they relate to the levy of an additional duty on salt, to the partially excluded areas in the Province of Madras.

WHEREAS it is expedient to extend the provisions of section 5 of the Indian Finance (Supplementary and Extending) Act, 1931, so far as they relate to the levy of an additional duty on salt, to the partially excluded areas in the Province of Madras ; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Regulation may be called the Madras Partially Excluded Areas Salt (Additional Duty) Regulation, 1942.

(2) It shall come into force at once.

Extension of certain provisions of section 5 of the Indian Finance (Supplementary and Extending) Act, 1931, to the Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts.

2. The provisions of section 5 of the Indian Finance (Supplementary and Extending) Act, 1931, so far as they relate to the levy of an additional duty on salt, shall apply to the [2][Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts].

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[1] These words were substitute for the words "excluded areas in the Province of Madras" by the Adaptation (Amendment) Order of 1950.

[2] These words were substituted for the words "partially excluded areas in the Province of Madras" by the Adaptation (Amendment) Order of 1950.

MADRAS REGULATION No. II OF 1942.

[THE MADRAS PARTIALLY EXCLUDED AREAS POST OFFICE (AMENDMENT) REGULATION, 1942.]

[*26th May 1942.*]

A Regulation to amend the Indian Post Office Act, 1898, in its application to the partially excluded areas in the Province of Madras for certain purposes.

Central Act VI of 1898.

WHEREAS it is expedient to amend the Indian Post Office Act, 1898, in its application to the partially excluded areas in the Province of Madras ; It is hereby enacted as follows :—

Short title and commencement.

1. (1) This Regulation may be called the Madras Partially Excluded Areas Post Office (Amendment) Regulation, 1942.

(2) It shall come into force at once.

Central Act VI of 1898.

Amendment of Central Act VI of 1898.

2. The Indian Post Office Act, 1898, shall, in its application to the [1][Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts] be amended as follows :—

(i) in section 7 of the said Act—

(*a*) the proviso to sub-section (1) shall be omitted ; and

(*b*) for sub-section (2) the following sub-section shall be substituted, namely :—

" (2) Unless and until such notification as aforesaid is issued the rates, chargeable for the time being in the rest of [2][India] shall be the rates chargeable in the [1][Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts "] ; and

Repeal of Schedule I, Central Act VI of 1898.

(ii) the First Schedule to the said Act shall be omitted.

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1. These words were substituted for the words " partially excluded areas in the Province of Madras " by the Adaptation (Amendment) Order of 1950.

2. This word was substituted for the words " British India " by *ibid.*

MADRAS REGULATION No. III OF 1942.

[THE AMINDIVI ISLANDS COURT FEES REGULATION, 1942.]

[*4th August 1942.*]

A Regulation to provide for the levy of court-fees on certain documents in the Amindivi Islands.

WHEREAS it is expedient to provide for the levy of court-fees on certain documents in the Amindivi Islands; It is hereby enacted as follows :—

Short title.

1. This Regulation may be called the Amindivi Islands Court Fees Regulation, 1942.

Levy of Court-fees.

2. In the Amindivi Islands, court-fees shall be leviable only on the documents specified in the schedule to this Regulation and at the rates specified therein—

SCHEDULE.

1 For a petition in a civil case	Twelve annas.
2 For a petition in a criminal case	One rupee.
3 For a power of attorney	One rupee.
4 For an application for the purpose of obtaining a copy or translation of any judgement, decree or order or of any document or record	Two annas.
[1] [5 For a copy or translation of a judgment or order filed in court or for a copy of decree filed in court.	Eight annas for every three hundred and sixty words or fraction of three hundred and sixty words.]

MADRAS REGULATION No. IV OF 1942.

[THE MADRAS AGENCY RULES (AMENDMENT) REGULATION, 1942.]

[*1st December 1942.*]

A Regulation further to amend the Madras Agency Rules for a certain purpose.

WHEREAS it is expedient further to amend the rules made under section 6 of the Scheduled Districts Act, 1874, for the administration of the Agency tracts of the Province of

Central Act XIV of 1874.

[1] This item was added by section 2 of the Amindivi Islands Court Fees (Amendment) Regulation, 1945 (Madras Regulation I of 1945).

Madras and for the regulation of the procedure of the officers appointed to administer them, for the purpose hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Regulation may be called the Madras Agency Rules (Amendment) Regulation, 1942.

Amendment of rule 1 of the Agency Rules.

Central Act XIV of 1874.

2. In sub-rule (1) of rule 1 of the rules made under section 6 of the Scheduled Districts Act, 1874, for the administration of the Agency tracts of the [1] [State] of Madras and for the regulation of the procedure of the officers appointed to administer them for the words " East Godavari and Vizagapatam " the words " West Godavari, East Godavari and Vizagapatam " shall be substituted.

MADRAS REGULATION No. V OF 1942.

[THE WEST GODAVARI (GANJAM AND VIZAGAPATAM ACT EXTENSION) REGULATION, 1942.]

[*1st December 1942.*]

A Regulation to extend certain provisions of the Ganjam and Vizagapatam Act, 1839, to the partially excluded areas in the West Godavari district.

Central Act XXIV of 1839.

WHEREAS it is expedient to extend the provisions of sections 3 to 7 of the Ganjam and Vizagapatam Act, 1839, to the partially excluded areas in the West Godavari district ; It is hereby enacted as follows :—

Short title.

1. This Regulation may be called the West Godavari (Ganjam and Vizagapatam Act Extension) Regulation, 1942.

Extension of sections 3 to 7 of the Ganjam and Vizagapatam Act, 1839, to the Scheduled Areas in the West Godavari district.

Central Act XXIV of 1839.

2. Sections 3 to 7 of the Ganjam and Vizagapatam Act, 1839, shall apply to the [2][Scheduled Areas] in the West Godavari district.

[1] This word was substituted for the word " Province " by the Adaptation Order of 1950.

[2] These words were substituted for the words " partially excluded areas " by the Adaptation (Amendment) Order of 1950.

MADRAS REGULATION No. I OF 1943.

[THE MADRAS PARTIALLY EXCLUDED AREAS (ESTATES LAND REPEALING) REGULATION, 1943.]

[*4th May 1943.*]

A Regulation to provide that the Madras Estates Land Act, 1908, shall cease to be in force in certain partially excluded areas in the Province of Madras.

WHEREAS it is expedient to provide that the Madras Estates Land Act, 1908, shall cease to be in force in certain partially excluded areas in the Province of Madras ; It is hereby enacted as follows :— Madras Act I of 1908.

Short title. **1.** This Regulation may be called the Madras Partially Excluded Areas (Estates Land Repealing) Regulation, 1943.

Repeal of Madras Act I of 1908 in certain partially excluded areas. **2.** (1) The Madras Estates Land Act, 1908 (hereinafter referred to as the said Act), shall cease to be in force in the [1][Scheduled Areas] specified in the Schedule to this Regulation.

(2) The [2][State] Government may, by notification in the *Fort St. George Gazette*, declare that the said Act shall cease to be in force [3][in any Scheduled Area in the East Godavari, West Godavari and Visakhapatnam districts other than one specified in the said Schedule.]

THE SCHEDULE.

Rampachodavaram taluk.

1 Bandapalli mutta.
2 Birampalli mutta.
3 Boduluru mutta.
4 Bolapudu mutta.
5 Chavala mutta.
6 Chiduguru mutta.
7 Choppakonda mutta.
8 Chodavaram mutta.
9 Darimadugula mokhasa.
10 Dorachintalapalem mutta.
11 Geddada mutta.
12 Kundada mutta.
13 Kakuru mutta.
14 Marrivada mutta.
15 Maredumilla mutta.
16 Mususurumilli mutta.
17 Nedumur mutta.
18 Nimmalapalem mokhasa.
19 Pamuleru mutta.
20 Paloru mutta.
21 Pandarimamidi mutta.
22 Rampa mutta.
23 Sirigundapaladu mutta.
24 Thadipalli mutta.
25 Tumurru mutta.
26 Vadapalli mokhasa.
27 Velagapalli mutta.
28 Vemulakonda mutta.
29 Valamuru mutta.
30 Vetakuru mutta.

Yellavaram taluk.

1 Anigeru mutta.
2 Dutcherti mutta.
3 Gurthedu mutta.
4 Karamgondi mokhasa.
5 Kota mutta.
6 Mohanapuram mutta.
7 Nollipudi mokhasa.
8 Pandraprolu mutta.
9 Chamagedda sub-mutta.
10 Nulakamaddi sub-mutta.
11 Pasarugunni sub-mutta.
12 Yerlagedda sub-mutta.
13 Yerragonda sub-mutta.

[1] These words were substituted for the words " partially excluded areas in the Province of Madras " by the Adaptation (Amendment) Order of 1950.
[2] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.
[3] These words were substituted for the words " any partially excluded area in the Province of Madras other than the partially excluded areas specified in the said Schedule " by the Adaptation (Amendment) Order, 1950.

MADRAS REGULATION No. II OF 1943.

[THE GOLGONDA AND POLAVARAM TALUKS (LOCAL TAXATION AND FEES) REGULATION, 1943.]

[*4th January 1944.*]

A Regulation to provide for the levy, with retrospective effect of certain local taxes and fees in the Golgonda taluk of the Vizagapatam district and the Polavaram taluk of the West Godavari district.

WHEREAS certain taxes and fees leviable under the Madras Local Boards Act, 1920[1], as applied to the Agency, are being levied in the Golgonda taluk of the Vizagapatam district and the Polavaram taluk of the West Godavari district with effect from the 1st April 1936 and the 1st October 1942, respectively ;

AND WHEREAS the validity of the levy of such taxes and fees in the said taluks is open to doubt ;

AND WHEREAS it is expedient to remove such doubts and to provide for the levy in the said taluks of the taxes and fees leviable under the Act aforesaid ;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Regulation may be called the Golgonda and Polavaram Taluks (Local Taxation and Fees) Regulation, 1943.

(2) It extends to the Golgonda taluk in the Vizagapatam district and the Polavaram taluk in the West Godavari district.

(3) It shall be deemed to have come into force on the first day of April 1936 in the Golgonda taluk and on the first day of October 1942 in the Polavaram taluk.

Power of State Government to levy certain taxes, tolls and fees in the Golgonda and Polavaram taluks.

2. The [2][State] Government or any authority or officer empowered by them in this behalf, shall have power to determine that any of the taxes, tolls and fees leviable under the Madras Local Boards Act, 1920[1], as applied to the Agency (hereinafter referred to as the said Act), shall be levied in any area in which this Regulation is in force ; and all the provisions of the said Act relating to the incidence, assessment or realization of such taxes, tolls and fees or in any manner connected therewith shall be applicable accordingly :

Provided that the [2][State] Government may, by notification in the *Fort St. George Gazette*, direct that the said provisions shall apply only to such extent and subject to such modifications and restrictions as may be specified in the notification.

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[1] Now the Madras Dissrict Boards Act, 1920 (Madras Act XIV of 1920).

[2] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

Validation of certain taxes, tolls and fees levied in the Golgonda and Polavaram taluks.

3. No tax, toll or fee levied by the [1] [State] Government or any authority or officer empowered by them, in the Golgonda taluk or any portion thereof after the 31st March 1936, and in the Polavaram taluk or any portion thereof after the 30th September 1942, and nothing done in pursuance of such levy, shall be deemed to be invalid or ever to have been invalid, by reason only of the fact that the area in which the tax, toll or fee was levied did not form part of a district as constituted under the said Act.

MADRAS REGULATION No. I OF 1944.

[THE MADRAS AGRICULTURISTS RELIEF (PARTIALLY EXCLUDED AREAS AMENDMENT) REGULATION, 1944.]

[*20th June 1944.*]

A Regulation to amend the Madras Agriculturists Relief Act, 1938, in its application to the partially excluded areas in the Province of Madras.

WHEREAS it is expedient to amend the Madras Agriculturists Relief Act, 1938, in its application to the partially excluded areas in the Province of Madras, for the purpose hereinafter appearing; It is hereby enacted as follows :— Madras Act IV of 1938.

Short title and commencement.

1. (1) This Regulation may be called the Madras Agriculturists Relief (Partially Excluded Areas Amendment) Regulation, 1944.

(2) It shall come into force at once.

Repeal of section 18-A, Madras Act IV of 1938 as in force in the Scheduled areas in the East Godavari, West Godavari and Visakhapatnam districts.

2. Section 18-A of the Madras Agriculturists Relief Act, 1938, in its application to the [2][Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts], shall be omitted. Madras Act IV of 1938.

[1] The word was substituted for the word " Provincial " by the Adaptation Order of 1950.

[2] These words were substituted for the words " partially excluded areas in the Province of Madras " by the Adaptation (Amendment) Order of 1950.

MADRAS REGULATION No. II OF 1945.

[THE MADRAS (PARTIALLY EXCLUDED AREAS) COMPULSORY VACCINATION REGULATION, 1945.]

[*20th November 1945.*]

A Regulation to provide for the enforcement of vaccination in certain partially excluded areas in the Province of Madras.

WHEREAS it is expedient to provide for the enforcement of vaccination in certain partially excluded areas in the Province of Madras ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Regulation may be called the Madras (Partially Excluded Areas) Compulsory Vaccination Regulation, 1945.

(2) It extends to the whole of the [1] [Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts] which are not for the time being included in a district within the meaning of the Madras Local Boards Act, 1920 [2] as applied to the Agency.

(3) (*a*) This section shall come into force at once.

(*b*) The [3] [State] Government may from time to time by notification in the *Fort St. George Gazette* direct that the remaining provisions of this Regulation shall come into force in the whole or any portion of the [4] [Scheduled Areas] referred in sub-section (2), on such date as may be specified in such notification and may cancel or modify any such notification.

Compulsory vaccination.

2. Vaccination shall be compulsory in any area in which this Regulation is in force, to the extent prescribed by rules made by the [3] [State] Government.

Power of State Government to make rules

3. (1) The [3] [State] Government may make rules—

(*a*) specifying the extent to which vaccination shall be compulsory in any area in which this Regulation is in force ; and

(*b*) providing for the enforcement of compulsory vaccination in such area, the authorities who shall be responsible therefor and the control to which they shall be subject.

(2) Any rules made under sub-section (1) may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees.

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[1] These words were substituted for the words " partially excluded areas in the Province of Madras " by the Adaptation (Amendment) Order of 1950.

[2] Now the Madras District Boards Act, 1920 (Madras Act XIV of 1920).

[3] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

[4] These words were substituted for the words" partially excluded areas " by the Adaptation (Amendment) Order of 1950.

Publication and effect of rules.

4. All rules made under this Regulation shall be published in the *Fort St. George Gazette*, and in the District Gazette of the revenue district concerned, and upon such publication shall have effect as if enacted in this Regulation.

MADRAS REGULATION No. I OF 1946.

[THE MADRAS AGENCY RULES (AMENDMENT) REGULATION, 1946.]

[*27th August 1946.*]

A Regulation further to amend the Madras Agency Rules.

WHEREAS it is expedient further to amend the rules made under section 6 of the Scheduled Districts Act, 1874, for the administration of the Agency tracts of the Province of Madras and for the regulation of the procedure of the officers appointed to administer them, for the purpose hereinafter appearing; It is hereby enacted as follows :— Central Act XIV of 1874.

Short title.

1. This Regulation may be called the Madras Agency Rules (Amendment) Regulation, 1946.

Insertion of new rule 12 in the Agency Rules.

2. After rule 12 of the rules made under section 6 of the Scheduled Districts Act, 1874, for the administration of the Agency tracts of the [1] [State] of Madras and for the regulation of the procedure of the officers appointed to administer them, the following rule shall be inserted, namely :— Central Act XIV of 1874.

"*Rule* 12*A*.—(1) On the application of the Agent to the [2][State] Government, or otherwise, the [2][State] Government may, by notification in the official Gazette, transfer any suit, appeal or proceeding pending in any Agency Court, to any Civil Court in any other [1] [State] including an Agency Court but not including a High Court :

Provided that no such transfer shall be made without the consent of the [2][State] Government of the other [1] [State].

(2) The law applicable to any case so transferred shall be the law which would have been applicable if the transfer had not taken place."

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[1] This word was substituted for the word "Province" by the Adaptation Order of 1950.

[2] This word was substituted for the word "Provincial" by *ibid*.

MADRAS REGULATION No. II OF 1946.

[THE MADRAS AGENCY RULES (SECOND AMENDMENT) REGULATION, 1946.]

[*19th November 1946.*]

A Regulation further to amend the Madras Agency Rules.

Central Act XIV of 1874.

WHEREAS it is expedient further to amend the rules made under section 6 of the Scheduled Districts Act, 1874, for the administration of the Agency tracts of the Province of Madras and for the regulation of the procedure of the officers appointed to administer them (which rules are hereinafter referred to as the said rules) ; It is hereby enacted as follows :—

Short title.

1. This Regulation may be called the Madras Agency Rules (Second Amendment) Regulation, 1946.

Insertion of a short title in the Madras Agency Rules.

2. Immediately after the preamble to the said rules, the following shall be inserted, namely :—

" *Short title.*

These rules may be called the Madras Agency Rules."

Insertion of new rule 1-A in the Madras Agency Rules.

3. After rule 1 of the said rules, the following rule shall be inserted, namely :—

" *Rule* 1-*A*.—All or any of the powers and functions of the Collector of Vizagapatam in his capacity as Agent to the [1] [State] Government may, if the [1] [State] Government so direct, and subject to such conditions and restrictions, if any, as may be laid down by them, be exercised and performed by the Headquarters Sub-Collector at Vizagapatam, and all references to an Agent to the [1] [State] Government or Agent in these rules shall be construed accordingly."

[1] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

MADRAS REGULATION No. I OF 1947.

[THE MADRAS AGENCY RULES (AMENDMENT) REGULATION, 1947.]

[*10th June 1947.*]

A Regulation further to amend the Madras Agency Rules.

WHEREAS it is expedient further to amend the Madras Agency Rules, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Regulation may be called the Madras Agency Rules (Amendment) Regulation, 1947.

Amendment of rule 30 of the Madras Agency Rules.

2. In rule 30 of the Madras Agency Rules, for the words and figures " sections 36 to 43 and Order XXXIV of the Civil Procedure Code," the words and figures " sections 36 to 43 and 48, and Order XXXIV of the First Schedule, of the Code of Civil Procedure, 1908 " shall be substituted.

MADRAS REGULATION No. II OF 1947.

[THE MADRAS AGENCY RULES (SECOND AMENDMENT) REGULATION, 1947.]

[*13th January 1948.*]

A Regulation further to amend the Madras Agency Rules.

WHEREAS it is expedient further to amend the Madras Agency Rules, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Regulation may be called the Madras Agency Rules (Second Amendment) Regulation, 1947.

Amendment of rule 31 of the Madras Agency Rules.

2. In rule 31 of the Madras Agency Rules, in the paragraph specifying the properties which are not liable to attachment or sale, after clause (*a*), the following clause shall be inserted, namely :—

" (*aa*) foodgrains as may, in the opinion of the court, be necessary for the maintenance of the family of a judgment-debtor who is a member of a 'hill tribe' notified as such under the Agency Tracts Interest and Land Transfer Act, 1917 (Madras Act I of 1917), for a period of twelve months ;".

MADRAS REGULATION No. I OF 1948.

[THE MADRAS AGENCY RULES (AMENDMENT) REGULATION, 1948.]

[*14th December 1948.*]

A Regulation further to amend the Madras Agency Rules.

WHEREAS it is expedient further to amend the Madras Agency Rules for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Regulation may be called the Madras Agency Rules (Amendment) Regulation, 1948.

Amendment of rule 1-A of the Madras Agency Rules.

2. In rule 1-A of the Madras Agency Rules, for the words " by the Headquarters Sub-Collector at Visakhapatnam," the words " by the Headquarters Sub-Collector, or as the case may be, the Headquarters Deputy Collector at Visakhapatnam " shall be substituted.

MADRAS REGULATION No. II OF 1949.

[THE MADRAS AGENCY RULES (AMENDMENT) REGULATION, 1949.]

[*3rd January 1950.*]

A Regulation further to amend the Madras Agency Rules.

WHEREAS it is expedient further to amend the Madras Agency Rules, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Regulation may be called the Madras Agency Rules (Amendment) Regulation, 1949.

Amendment of rule 34 of the Madras Agency Rules.

2. In rule 34 of the Madras Agency Rules (which relates to execution of decrees), the words " of the High Court " occurring after the word " Decrees " shall be omitted.

MADRAS REGULATION No. IV OF 1949.

THE AMINDIVI ISLANDS (RESTRICTIONS ON ENTRY AND RESIDENCE) REGULATION, 1949.

[*10th January 1950.*]

A Regulation to take power to exclude from the Amindivi Islands persons who are not natives of those islands.

WHEREAS it is expedient to take power to exclude from the Amindivi Islands, persons who are not natives of those islands ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Regulation may be called the Amindivi Islands (Restrictions on Entry and Residence) Regulation, 1949.

(2) It extends to the whole of the Amindivi Islands.

(3) It shall come into force at once.

Power of State Government to exclude persons who are not natives of any Amindivi Island from such island.

2. The [1][State] Government may, by order—

(*a*) prohibit any person who is not a native of any island to which this Regulation applies, from visiting it or taking up his residence therein, without a permit from an officer authorized by the [1]State Government in this behalf, or

(*b*) require any person who is not a native of any such island to leave it,

and may make such rules as they deem fit to carry out the purposes of this Regulation.

Penalties.

3. (1) If any person, in contravention of any order made under section 2, enters, or fails to leave, any such island, then, without prejudice to the provisions of sub-section (2) of this section, he may be removed from such island by any Police officer, or by any other officer authorized by the [1][State] Government in this behalf.

(2) If any person contravenes any order made under section 2, he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

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[1] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

MADRAS REGULATION No. I OF 1951.

[THE MADRAS SCHEDULED AREAS (VALIDATION OF SUCCESSION CERTIFICATES) REGULATION, 1951.]

[*3rd July 1951.*]

A Regulation to validate the succession certificates granted by the Courts of the Special Assistant Agents in the Scheduled Areas in the East Godavari, West Godavari, Visakhapatnam and Srikakulam districts.

WHEREAS it is expedient to validate the succession certificates granted by the Courts of the Special Assistant Agents in the scheduled areas in the East Godavari, West Godavari, Visakhapatnam and Srikakulam districts; It is hereby enacted as follows :—

1. This Regulation may be called the Madras Scheduled Areas (Validation of Succession Certificates) Regulation, 1951. Short title.

2. No succession certificate granted before the 15th day of August 1950 by the Court of any Special Assistant Agent in the scheduled areas in the East Godavari, West Godavari, Visakhapatnam and Srikakulam districts shall be deemed to be invalid or ever to have been invalid on the ground that the said Court had not, at the time when such certificate was granted, been invested with power to exercise the functions of a District Judge under Part X of the Indian Succession Act, 1925. Validation of succession certificates granted by the Special Assistant Agents.

Central Act XXXIX of 1925.

MADRAS REGULATION No. II OF 1951.

[THE MADRAS AGENCY RULES (AMENDMENT) REGULATION, 1950.]

[*28th August 1951.*]

A Regulation further to amend the Madras Agency Rules.

WHEREAS it is expedient further to amend the Madras Agency Rules for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. (1) This Regulation may be called the Madras Agency Rules (Amendment) Regulation, 1950. Short title and commencement.

(2) It shall come into force on such date[1] as the State Government may, by notification in the *Fort St. George Gazette*, appoint.

Amendment of rule 1 of the Madras Agency Rules.

2. In rule 1, sub-rule (1), of the Madras Agency Rules, for the words " and Vizagapatam ", the words " Visakhapatnam and Srikakulam " shall be substituted.

MADRAS REGULATION No. III OF 1951.

[THE SCHEDULED AREAS ESTATES LAND (REDUCTION OF RENT AMENDMENT) REGULATION, 1951.]

[*25th September 1951.*]

A Regulation to apply the Madras Estates Land (Reduction of Rent Amendment) Act, 1949, to certain Scheduled Areas in the State of Madras.

WHEREAS it is expedient to apply the Madras Estates Land (Reduction of Rent Amendment) Act, 1949, to certain Scheduled Areas in the State of Madras ; It is hereby enacted as follows :— Madras Act XXXIX of 1949.

Short title and extent.

1. (1) This Regulation may be called the Scheduled Areas Estates Land (Reduction of Rent Amendment) Regulation, 1951.

(2) It extends to the Scheduled Areas in the State of Madras specified in the Schedule.

Application of Madras Act XXXIX of 1949 to certain Scheduled Areas.

2. The provisions of the Madras Estates Land (Reduction of Rent Amendment) Act, 1949, shall apply to the Scheduled Areas in the State of Madras specified in the said Schedule. Madras Act XXXIX of 1949.

THE SCHEDULE.

[*See* Section 1 (2).]

East Godavari, West Godavari, Visakhapatnam and Srikakulam Agencies, except—

(1) the Nugur taluk in the East Godavari district ; and

[1] This regulation will come into force on 1st February 1952—*See* G.O. Ms. No. 59, Rural Welfare, dated 21st January 1952.

(2) the muttas, mokhasas and sub-muttas in the East Godavar district specified below :—

Rampa Chodavaram taluk—
1 Bandapalli mutta.
2 Birampalli mutta.
3 Boduluru mutta.
4 Bolapudu mutta.
5 Chavala mutta.
6 Chiduguru mutta.
7 Choppakonda mutta.
8 Chodavaram mutta,
9 Darimadugula mokhasa.
10 Dorachintalapalem mutta.
11 Geddada mutta.
12 Kundada mutta.
13 Kakuru mutta.
14 Marrivada mutta.
15 Maredumilla mutta.
16 Musurumilli mutta.
17 Nedamur mutta.
18 Nimmalapalem mokhasa.
19 Pamuleru mutta.
20 Paleru mutta.
21 Pandarimamidi mutta.
22 Rampa mutta.

Rampa Chodavaram taluk—*cont.*
23 Sirigundalapadu mutta.
24 Thadipalli mutta.
25 Thumuru mutta.
26 Vadapalli mokhasa.
27 Velagapalli mutta.
28 Vemulakonda mutta.
29 Valamuru mutta.
30 Vetakuru mutta.

Yellavaram taluk—
1 Anigeru mutta.
2 Dutcherti mutta.
3 Gurthedu mutta.
4 Karamgondi mokhasa.
5 Kota mutta.
6 Mohanapuram mutta.
7 Nellipudi mokhasa.
8 Pandraprolu mutta.
9 Chamagedda sub-mutta.
10 Nulakamuddi sub-mutta.
11 Pasarugunni sub-mutta.
12 Yarlagedda sub-mutta.
13 Yerragonda sub-mutta.

MADRAS REGULATION No. IV OF 1951.

[THE MADRAS SCHEDULED AREAS ESTATES (ABOLITION AND CONVERSION INTO RYOTWARI) REGULATION, 1951.]

[*2nd October 1951.*]

A Regulation to apply the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948, and the Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1950, to certain Scheduled Areas in the State of Madras.

WHEREAS it is expedient to apply the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948, and the Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1950, to certain Scheduled Areas in the State of Madras ; It is hereby enacted as follows :—

Madras Act XXVI of 1948.
Madras Act I of 1950.

1. (1) This Regulation may be called the Madras Scheduled Areas Estates (Abolition and Conversion into Ryotwari) Regulation, 1951. Short title and extent.

(2) It extends to the Scheduled Areas in the State of Madras specified in the schedule (hereinafter referred to as the said areas).

Application of Madras Act XXVI of 1948 and Madras Act I of 1950 to certain Scheduled Areas.

2. The provisions of the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (hereinafter referred to as the first Act) and the Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1950 (hereinafter referred to as the second Act) shall apply to the said areas, subject to the following modifications, namely :— Madras Act XXVI of 1948. Madras Act I of 1950.

(*a*) In sub-section (4) of section I of the first Act, for the words " shall come into force at once ", the following words, figures and letters shall be substituted, namely :—

" shall be deemed to have come into force on the 19th April 1949 ".

(*b*) After section 1 of the second Act, the following section shall be inserted, namely :—

Commencement.

" 1-A. It shall be deemed to have come into force on the 25th January 1950 ".

Validation.

3. No action or proceeding taken, no notification issued, no order made, and nothing done, by the State Government or any other authority or officer in the said areas—

(*a*) at any time on or after the 19th April 1949 in accordance with the provisions of the first Act, or

(*b*) at any time on or after the 25th January 1950 in accordance with the provisions of the first Act as amended by the second Act, shall be questioned on the ground that the first Act or the first Act as amended by the second Act, as the case may be, was not in force in the said areas at the relevant time.

THE SCHEDULE.

[*See* section 1 (2).]

East Godavari, West Godavari, Visakhapatnam and Srikakulam Agencies except—

(1) the Nugur taluk in the East Godavari district ; and

(2) the muttas, mokhasas and sub-muttas in the East Godavari district specified below :—

Rampa Chodavaram taluk—

1 Bandapalli mutta.
2 Birampalli mutta.
3 Boduluru mutta.
4 Bolapudu mutta.
5 Chavala mutta.
6 Chiduguru mutta.
7 Choppakonda mutta.
8 Chodavaram mutta.
9 Darimadugula mokhasa.
10 Dorachintalapalem mutta.
11 Geddada mutta.
12 Kundada mutta.
13 Kakuru mutta.
14 Marrivada mutta.
15 Maredumilla mutta.

Rampa Chodavaram taluk—cont.

16 Musurumilli mutta.
17 Nedumur mutta
18 Nimmalapalem mokhasa.
19 Pamuleru mutta.
20 Paldru mutta.
21 Pandarimamidi mutta.
22 Rampa mutta.
23 Sirigundalapadu mutta.
24 Thadipalli mutta.
25 Tummuru mutta.
26 Vadapalli mokhasa.
27 Velagapalli mutta.
28 Vemulakonda mutta,
29 Valamuru mutta.
30 Vetakuru mutta.

Yellavaram taluk—

1 Anigeru mutta.
2 Dutchorti mutta.
3 Gurthedu mutta.
4 Karamgondi mokhasa.
5 Kota mutta.
6 Mohanapuram mutta.
7 Nellipudu mokhasa.

Yellavarm taluk—cont.

8 Pandraprolu mutta.
9 Chamagedda sub-mutta.
10 Nulakamaddi sub-mutta.
11 Pasaruganni sub-mutta.
12 Yarlagedda sub-mutta.
13 Yerragonda sub-mutta.

PART V.

UNREPEALED MADRAS ACTS

MADRAS ACT No. IV OF 1862.[1]

[THE MADRAS ENFRANCHISED INAMS ACT, 1862.]

[15*th May* 1862; 12*th June* 1862.]

[2]An Act to declare what shall be proof of the enfranchisement of inams.

WHEREAS * * *[3] under the inam rules sanctioned by Government under date the 9th August, 1859, the reversionary rights of Government are surrendered to the Preamble.

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[1] Short title, "The Madras Enfranchised Inams Act, 1862" was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

Nothing in this Act is to be deemed to confer on any inamholder any right to land which he would not otherwise possess—*see* s. I, Mad. Act VIII of 1869.

This Act has been declared in force in the Scheduled district in Ganjam —*see Fort St. George Gazette*, 1899, Pt. I, p. 888, and *Gazette of India*, 1899, Pt. I, p. 720.

The Act has been extended by a notification under section 5 of the Scheduled Districts Act, 1874, to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Act has been declared by a notification under section 3 (*a*) of the Scheduled Districts Act, 1874, to be in force in the Dutcharti and Guditeru Muttas of the Godavari Agency—*see ibid.*

The Act has been declared by a notification under section 3 (*b*) of the Scheduled Districts Act, 1874, not to be in force in the Vizagapatam Agency—*see ibid.*

[2] This title was substituted for the original title by the Repealing and Amending Act, 1901 (Central Act XI of 1901)—Second Schedule, Part III.

[3] The intervening portion of the Preamble was repealed by *ibid.*

inamdars, in consideration of an equivalent annual quit-rent, and the inam lands are thus enfranchised, and placed in the same position as other descriptions of landed property, in regard to their future succession and transmission; It is hereby enacted as follows :—

[*Enactments not to apply to enfranchised inams.*]
Rep., Central Act XI of 1901.

Evidence of enfranchisement.

2. The title-deed issued by the Inam Commissioner, or an authenticated extract from the register of the Commissioner or Collector, shall be deemed sufficient proof of the enfranchisement of land previously held on inam tenure.

THE MADRAS REVENUE RECOVERY ACT, 1864.

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MADRAS ACT No. II OF 1864. [1]

[THE MADRAS REVEUNE RECOVERY ACT, 1864.] [2]

[*20th June 1864.*]

An Act to consolidate the Laws for the Recovery of Arrears of Revenue in the Madras Presidency.

Preamble.

WHEREAS it is advisable that the laws relating to the collection of the public revenue should be consolidated and simplified ; It is hereby enacted as follows :—

Interpretation clause. Landholder.

1. The term " landholder " as used in this Act, shall be taken to comprise the following persons :—

All persons holding under a Sanad-i-Milkiyat-i-istimrar, all other Zamindars, Shrotriyamdars, Jagirdars, Inamdars, and all persons farming the Land Revenue under [3] [the State Government]. All holders of land under Ryotwar settlements, or in any way subject to the payment of revenue direct to [3] [the State Government].

Public revenue.

Public revenue due on land shall, for the purposes of this Act, be taken to include cesses or other dues payable to [3] [the State Government] on account of water supplied for irrigation.

Security for revenue.

2. The land, the buildings upon it, and its products, shall be regarded as the security of the public revenue.

Landholder when and to whom to pay kist.

3. Every landholder shall pay to the Collector, or other officer empowered by him to receive it, the revenue due upon his land on or before the day on which it falls due, according to the kistbandi or other engagement, and where no particular

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[1] Short title, " The Madras Revenue Recovery Act, 1864 " was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Act has been declared, by notification under s. 3 of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Rampa country in the Godavari District—*see Fort St. George Gazette*, 1879, p. 723, and *Gazette of India*, 1879, Pt. I, p. 630.

It has been declared, by notification under section 3 (*a*) of the Scheduled Districts Act ,1874 (Central Act XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Vizagapatam—*see Fort St. George Gazette*, 1898, Pt. I, p. 666 and *Gazette of India*, 1898, Pt. I, p. 869. It has also been declared by a notification under the same section to be in force in the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

It has been extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to the taluks of Bhadrachalam and Rakapilli in the Godavari District—*see Fort St. George Gazette*, 1879, Pt. I, p. 722, and *Gazette of India, ibid.*, p. 630.

This Act is not in force in the taluks of Nugur, Albaka and Cherla, *vide* s. 2 (2) of the Nugur, Albaka and Cherla Laws and Cesses Regulation, 1909 (Central Regulation I of 1909).

[2] The Act was temporarily amended by the Madras Revenue Recovery (Temporary Amendment) Act 1922 (Madras Act IV of 1922).

[3] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

day is fixed, then within the time when the payment falls due according to local usage : Provided that, except where property is held under a Sanad-i-Milkiyat-i-istimrar or other similar instrument, it shall be lawful for the Board of Revenue, by notification published in the District Gazette, to alter and fix, from time to time, the amount of the several kists or instalments, and the dates at which they shall respectively become payable. Board of Revenue may alter amounts and dates of payment.

4. When the whole or portion of a kist shall not be so paid, the amount of the kist or of its unpaid portion shall be deemed to be an arrear of revenue. Arrear of revenue.

5. Whenever revenue may be in arrear, it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to proceed to recover the arrear, together with interest and costs of process, by the sale of the defaulter's movable and immovable property, or by execution against the person of the defaulter in manner hereinafter provided. Arrear of revenue how recovered.

6. If the defaulter hold under a Sanad-i-Milkiyat-i-istimrar or other similar instrument, the mode of recovering the arrear shall be in accordance with the terms of such Sanad. In the case of other defaulters, the Collector, or other officer empowered by the Collector in that behalf, may at his discretion, proceed to realize the arrear by the sale of either the movable or immovable property of the defaulter, or of both. Terms of Sanad-i-Milkiyat-i-istimrar to be observed.

7. Arrears of revenue shall bear interest at the rate of 6 per cent per annum. Interest on arrears.

8. In the seizure and sale of movable property for arrears of revenue, the following rules shall be observed :— Rules for seizure and sale of movable property.

First.—The Collector, or other officer empowered by the Collector in that behalf, shall furnish to the person employed to distrain the property of a defaulter, a demand in writing and signed with his name, specifying the name of the defaulter, the amount of the arrear for which the distress may be issued, and the date on which the arrear fell due. The person employed to distrain shall produce the writing which, if the arrear together with the batta due to him, under section 53, be not at once paid, shall be his authority for making the distress, and on the day on which the property may be distrained, shall deliver a copy of such writing to the defaulter, endorsing thereon a list or inventory of the property distrained, and the name of the place where it may be lodged or kept. Demand in writing. Defaulter to be served with a copy.

Second.—The writing shall further setforth that the distrained property will be immediately brought to public sale, unless the amount, with interest, batta, and all the expenses of the distress, be previously discharged. Writing to state that the distrained property, will be sold.

Service when defaulter is absent.

Third.—When a defaulter may be absent, a copy of the writing, with the endorsement, shall be fixed or left at his usual place of residence, or on the premises where the property may have been distrained, before the expiration of the third day, calculating from the day of the distress.

Procedure when defaulter neglects to pay after notice.

9. When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Collector or other officer empowered by the Collector in that behalf, the distrainer shall transmit an inventory of the property distrained to the nearest public officer empowered to sell distrained property, under Act VII of 1839, in order that it may be publicly sold for the discharge of the arrear due, with interest, batta, and cost of distraint.

On tender of arrear and expenses prior to sale, distress withdrawn.

10. Where a defaulter may tender payment of the arrear demanded after his property may have been distrained, and prior to the day fixed for sale, together with payment of interest, batta, and all necessary expenses attending distress, the distrainer shall receive the amount immediately upon the same being tendered, and shall forthwith release the property.

Distrained crops how dealt with.

11. The distrainer attaching the crops or ungathered products of the land belonging to a defaulter, may cause them to be sold when fit for reaping or gathering, or, at his option, may cause them to be reaped or gathered in due season and stored in proper places until sold. In the latter case, the expense of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold. When crops or products belonging to a tenant shall have been sold, it shall be lawful for such tenant to deduct the value of the crops or products so sold from any rent which may be due by him, then or afterwards, to the defaulter, in respect of the land on which such crops or products have been grown. It shall also be lawful for a tenant whose crops are attached for an arrear of revenue to pay the arrear and deduct the amount in the aforesaid manner from any rent due by him, then or afterwards.

Tenant may pay arrears and terminate attachment.

Distrained cattle or goods not to be used.

12. The distrainer shall not work the bullocks or cattle, or make use of the goods or effects distrained ; he shall provide the necessary food for the cattle or livestock, the expense attending which shall be defrayed by the owner upon his redeeming the property, or from the proceeds of the sale in the event of its being sold.

Recovery of loss from neglect in respect of distrained property.

13. Where property distrained may be stolen or lost, or damaged by reason of the necessary precautions for its due preservation not having been taken, or from its having been improperly worked or made use of, the amount of such loss or damage shall be recoverable by summary process by

the Collector from the officer whose neglect or act occasioned the loss or damage, and the amount when recovered shall be paid to the person damnified.

Distress to be proportionate to the arrear.

14. The distress levied shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate to the amount of the arrear.

Time of distress.

15. Distress shall be made after sunrise and before sunset and not otherwise.

Penalty for fraudulent conveyance of property to prevent distress.

16. Where a defaulter may make a fraudulent conveyance of property to prevent the distress for arrears, any Civil Court of competent jurisdiction, upon proof thereof, shall summarily cause the property to be delivered up to the distrainer. The defaulter will further be liable to the penalties prescribed by section 424 of the Indian Penal Code.

Central Act XLV of 1860.

Claims to property distrained and sold.

17. Where any person, not being a defaulter or responsible for a defaulter, may claim a right to the property distrained, and the distrainer may, notwithstanding, cause the same to be sold, such claimant, on proof of such right in any Civil Court of competent jurisdiction, and in the event of the distrainer being unable to prove the responsibility for the arrear of revenue, on account of which the property may have been sold, shall recover from the distrainer the full value of such property, with interest, costs, and damages, according to the circumstances of the case. But claims to crops upon the ground or to gathered products of the ground attached, in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall not bar the prior claim of revenue due from the ground upon which such crop or product may have been grown.

Revenue to be the first charge.

Penalty for forcibly or clandestinely taking away distrained property.

18. Where it may be proved to the satisfaction of any Civil Court of competent jurisdiction that any person has forcibly or clandestinely taken away property once distrained, the Court may summarily cause such property to be restored to the distrainer. The offender will further be liable to the penalties prescribed by the Indian Penal Code.

Central Act XLV of 1860.

What places distrainer may force open.

19. It shall be lawful for the distrainer to force open any stable, cowhouse, granary, godown, out-house, or other building, and he may also enter any dwelling house the outer door of which may be open, and may break open the door of any room in such dwelling house for the purpose of attaching property belonging to a defaulter and lodged therein ; provided always that it shall not be lawful for such distrainer to break open or enter any apartment in such dwelling house appropriated for the zenana or residence of women, except as hereinafter provided.

Powers of distrainer to force open doors in the presence of a police officer.

20. Where a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling house, the outer door of which may be shut, or within any apartments appropriated to women, which, by the usage of the country, are considered private, such distrainer shall represent the same to the officer in charge of the nearest Police station. On such representation, the officer in charge of the said station shall send a police officer to the spot, in the presence of whom the distrainer may force open the outer door of such dwelling house, in like manner as he may break open the door of any room within the house except the zenana. The distrainer may also, in the presence of the police officer, after due notice given for the removal of women within a zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank, who, according to the customs of the country cannot appear in public), enter the zenana apartments for the purpose of distraining the defaulter's property deposited therein, but such property, if found, shall be immediately removed from such apartments after which they shall be left free to the former occupants.

Punishment for unlawful entry.

21. Persons entering the apartments of women, or forcing open the outer door of dwelling houses, contrary to the provisions of this Act, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rupees 500, or to imprisonment of either description for any period not exceeding six months.

Proclamation of time of sale, and of property to be sold.

22. The public officer, empowered under Act VII of 1839 to sell distrained property, shall cause to be affixed to the outer door of the defaulter's house, or on the premises where the property may have been distrained, a list of the property to be sold, with a notice specifying the place where, and the day and hour at which the distrained property will be sold and shall cause proclamation of the intended sale to be made by beat of drum in the village to which the lands on which the arrear has accrued may belong, and in such place or places as the Collector, or other officer empowered by the Collector in that behalf, may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of a period of fifteen days from the date on which the notice may be so affixed.

Sale how conducted.

23. At the appointed time, the property shall be put up in one or more lots, as the said officer may consider advisable, and shall be disposed of to the highest bidder. Where the property may sell for more than the amount of the arrear, the overplus, after deducting expenses of process and interest, shall be paid to the defaulter.

Payment on purchase of distrained property.

24. The property shall be paid for in ready money at the time of the sale, or as soon after as the officer holding the sale shall appoint, and the purchaser shall not be permitted to

carry away any part of the property until he has paid for the same in full. Where the purchaser may fail in the payment of the purchase money, the property shall be re-sold, and the defaulting purchaser shall be liable for any loss arising, as well as the expenses incurred on the re-sale. Where the property may, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made. Re-sale in case of default.

25. Before a Collector, or other officer empowered by the Collector in that behalf, proceeds to attach the land of the defaulter, or buildings thereon, he shall cause a writen demand to be served upon the defaulter, specifying the amount due, the estate or land in respect of which it is claimed, the name of the party in arrear, the batta due to the person who shall serve the demand, and the time allowed for payment, which shall be fixed with reference to the distance from the land on which the arrear is due to the place at which the money is to be paid. Such demand shall be served by delivering a copy to the defaulter, or to some adult male member of his family at his usual place of abode, or to his authorized agent, or by affixing a copy thereof on some conspicuous part of his last known residence, or on some conspicuous part of the land about to be attached. Demand to be served prior to attachment of land. Mode of service.

26. When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Collector, or other officer empowered by the Collector in that behalf, he shall proceed to recover the arrear by the attachment and sale of the defaulter's land in the following manner. Procedure when defaulter neglects to pay.

27. The attachment shall be effected by affixing a notice thereof to some conspicuous part of the land. The notice shall set forth that unless the arrear, with interest and expenses, be paid within the date therein mentioned, the land will be brought to sale in due course of law. The attachment shall be notified by public proclamation on the land, and by publication of the notice in the District Gazette. Mode of attachment.

28. It shall be lawful for the Collector, when attaching the land of a defaulter, or at any time during such attachment to assume the management of the property attached. In such case he shall appoint an agent with a proper establishment of officers to manage the property, and shall give the agent certificate of appointment with written instructions under his seal and signature, and the expenses of management shall be defrayed out of the income of the property; provided always, that where the property may be too inconsiderable to admit of its being charged with the salary of an Management of attached property.

When Revenue officer to take charge.

agent, it shall be committed to the care of such Revenue officer as the Collector may select, who shall be subject to all the provisions herein contained in reference to agents.

Notice of assumption of management.

29. Notice of the assumption of management shall forthwith be served on the defaulter in the manner described in section 25, and shall be notified by public proclamation on the land, and by publication in the District Gazette.

Duties of agent.

30. It shall be the duty of the agent, during the continuance of management under section 28, to collect the rents and profits due, or accruing due upon the estate, according to the engagements subsisting between the defaulter and the parties holding under him, or according to established usage where no specific engagements exist. The agent shall keep accounts of all his receipts and disbursements, and submit the same, and pay over the balance, to the Collector, or other officer empowered by the Collector in that behalf, monthly, or whenever required, and the defaulter shall be at liberty to inspect the accounts at all reasonable times and to take copies of the same at his own expense without fee.

Liability of agent to suit or prosecution.

31. It shall be lawful for the defaulter to proceed by prosecution or suit against the agent, in respect of any criminal or illegal act done by him to the injury of the defaulter or his estate, and all tenants, or other persons holding by subordinate title, shall have the same remedies against him as they would have had against the defaulter if the act were done by the defaulter.

Effect of existing agreements between landholder and tenants.

32. All engagements entered into between the landholder and his tenants, except such as are hereinafter mentioned, shall be binding upon the Collector, during attachment, but all such engagements made collusively with a view to defeat or delay the effect of the attachment, and all leases of land at a rate lower than the usual rates of assessment, and not made *bona fide* for the purpose of erecting factories or buildings, or of bringing waste land into cultivation, and all engagements made subsequently to attachment, shall be null and void against the Collector, if he shall so declare ; subject, however, to the right of the parties to such agreement to bring a suit against the Collector in the ordinary tribunals to establish the same; and all charges or incumbrances upon such land shall be postponed to the payment of the public revenue.

Payments by tenants.

33. All payments on account of rent or profits actually due, made before public notice of assumption of management to or on behalf of any landholder by any person holding under him, shall be valid against the Collector, and all such payments made after public notice of such assumption, or made before they were actually due, shall be null and void against the Collector, who shall be entitled to recover, as arrears of rent, the full amount from the parties by whom it was paid, leaving them to sue the defaulter in the ordinary Courts of law.

Settlement on withdrawal of attachment.

34. All sums received from the property attached, after paying the expenses of attachment and management, shall be carried to the credit of the defaulter in discharge of the arrears due, and interest thereon at the rate of six per cent per annum, and as soon as all arrears, interest, costs of attachment, and expense of management shall have been liquidated, the attachment shall be withdrawn, and a full account rendered of all receipts and disbursements during its continuance.

Persons interested in land may release it from attachment.

35. It shall be lawful for any person claiming an interest in land which has been, or is about to be, attached, to obtain its release by paying the arrears, interest, and costs incurred; and all such sums, if paid by a tenant, may be deducted from any rent then or afterwards due by him to the defaulter; and if paid by a *bona fide* mortgagee or other incumbrancer upon the estate, [1] [or by any person not being in possession thereof but *bona fide* claiming an interest therein adverse to the defaulter], shall be a charge upon the land, but shall only take priority over other charges according to the date at which the payment was made. [2] [Such sums when paid by a *bona fide* mortgagee or other incumbrancer shall further constitute a debt from the defaulter.]

Procedure in sale of immovable property.

36. In the sale of immovable property under this Act the following rules shall be observed :—

Public auction.

First.—The sale shall be by public auction to the highest bidder. The time and place of sale shall be fixed by the Collector of the district in which the property is situated, or other officer empowered by the Collector in that behalf. The time may be either previous to or after the expiration of the fasli year.

Notification one month before sale.

Second.—Previous to the sale the Collector, or other officer empowered by the Collector in that behalf, shall issue a notice thereof in *English* and in the language of the district, specifying the name of the defaulter; the position and extent of land and of his buildings thereon; the amount of revenue assessed on the land, or upon its different sections; the proportion of the public revenue due during the remainder of the current fasli; and the time, place, and conditions of sale. This notice shall be fixed up one month at least before the sale in the Collector's office and in the Taluk cutcherry, in the nearest police station-house, and on some conspicuous part of the land.

Deposit by purchaser.

Third.—A sum of money equal to fifteen per cent of the price of the land shall be deposited by the purchaser in the hands of the Collector, or other officer empowered by the

[1] These words were substituted for the words "shall constitute a debt from the defaulter to him and" by s. 1 of Mad. Act I of 1897.

[2] These words were added by *ibid.*

Collector in that behalf, at the time of the purchase, and where the remainder of the purchase-money may not be paid within thirty days, the money so deposited shall be liable to forfeiture.

Re-sale in default of payment.

Fourth.—Where the purchaser may refuse or omit to deposit the said sum of money, or to complete the payment of the remaining purchase-money, the property shall be resold at the expense and hazard of such purchaser, and the amount of all loss or expense which may attend such refusal or omission shall be recoverable from such purchaser in the same manner as arrears of public revenue. Where the lands may, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

Agents to name principals.

Fifth.—All persons bidding at a sale may be required to state whether they are bidding on their own behalf or as agents, and, in the latter case, to deposit a written authority signed by their principals. If such requisition be not complied with, their bids may be rejected.

Certain provisions of section 36 not to apply to cases of purchase by Government.

[1] [**36-A.** The provisions of the Third and Fourth clauses of section 36 shall not apply to cases where immovable property sold under this Act is purchased by the Government.]

Tender of arrears up to sunset on day before sale.

37. It shall be competent to the defaulter or to any person acting on his behalf, or claiming an interest in the land, to tender the full amount of the arrears of revenue with the interest thereon, and all charges which have been incurred in demanding the arrears, or in attaching or managing the estate or in taking the steps necessary for sale, and thereupon the sale shall be stayed :

Provided always that such tender must be made before sunset on the day previous to that appointed for the sale, and all sums [2] [paid under this or the next succeeding section] by any tenant, or *bona fide* mortgagee, or other incumbrancer [3] [or any person *bona fide* claiming an interest in the estate adverse to the defaulter] may be recovered in the manner provided in section 35.

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[1] This section was inserted by s. 2 of the Madras Revenue Recovery and City Land Revenue (Amendment) Act, 1937 (Madras Act XIV of 1937).

The Madras Revenue Recovery Act, 1864, should in its application to the State of Madras be read and construed as if section 36-A had formed part of that Act from its commencement—*vide* section 4 (1), *ibid.* *See* also section 4 (3), *ibid.*

[2] These words were substituted for the words "so paid" by s. 2 of Mad. Act I of 1909.

[3] These words were added by s. 2 of Mad. Act I of 1897.

[1] [37-A. (1) Any person owning or claiming an interest in immovable property sold under this Act may, at any time within thirty days from the date of sale, deposit in the treasury of the taluk in which the immovable property is situated— Application to set aside sale of immovable property on deposit.

(*a*) a sum equal to five *per centum* of the purchase money.

(*b*) a sum equal to the arrears of revenue for which the immovable property was sold, together with interest thereon and the expenses of attachment, management and sale and other costs due in respect of such arrears, and may apply to the Collector to set aside the sale.

(2) If such deposit and application are made within thirty days from the date of sale, the Collector shall pass an order setting aside the sale, and shall repay to the purchaser the purchase money so far as it has been deposited, together with the five *per centum* deposited by the applicant :

Provided that if more persons than one have made deposit and application under this section, the application of the first depositor to the officer authorized to set aside the sale shall be accepted.

(3) If a person applies under section 38 to set aside the sale of immovable property, he shall not, unless he withdraws such application, be entitled to make an application under this section.]

[2] [38. (1) At any time within thirty days from the date of the sale of immovable property, application may be made to the Collector to set aside the sale on the ground of some material irregularity, or mistake, or fraud, in publishing or conducting it ; but, except as otherwise is hereinafter provided, no sale shall be set aside on the ground of any such irregularlity or mistake unless the applicant proves to the satisfaction of the Collector that he has sustained substantial injury by reason thereof. Application to set aside sale.

(2) If the application be allowed, the Collector shall set aside the sale and may direct a fresh one.

(3) On the expiration of thirty days from the date of the sale, [3] [if no application to have the sale set aside is made under section 37-A or under clause (1) of this section] or if such application has been made and rejected, the Collector shall make an order confirming the sale ; provided that, if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale. Order confirming or setting aside sale.

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[1] This section was inserted by s. 3 of Mad. Act I of 1909.

[2] This section was substituted by s. 1 of Mad. Act III of 1884.

[3] These words were substituted for the words " if no such application is made " by s. 4 of Mad. Act I of 1909.

Refund of deposit or purchase-money when sale set aside.

(4) Whenever the sale of any lands is not so confirmed or is set aside, the deposit or the purchase-money, as the case may be, shall be returned to the purchaser.

On confirmation of sale purchaser's name to be registered.

(5) After the confirmation of any such sale, the Collector shall register the lands sold in the name of the person declared to be the purchaser and shall execute and grant a certificate of sale bearing his seal and signature to such purchaser.

Certificate of sale.

Such certificate shall state the property sold and the name of the purchaser, and it shall be conclusive evidence of the fact of the purchase in all Courts and Tribunals, where it may be necessary to prove the same; and no proof of the Collector's seal or signature shall be necessary, unless the authority before whom it is produced shall have reason to doubt its genuineness.]

Proclamation of sale.

39. When lands may be purchased at public sale the Collector, or other officer empowered by the Collector in that behalf, shall publish in the villages, in which the land sold may be situated, in the cutcherry of the taluk, in the head cutcherry of the district, and in the District Gazette, the name of the purchaser and the date of purchase, together with a declaration of the lawful succession of such purchaser to all the rights and property of the former landholder in the said lands.

Delivery of possession.

40. Where, notwithstanding such publication, any lawful purchaser of land may be resisted and prevented from obtaining possession of his purchased land, any Court of competent jurisdiction, on application and production of certificate of sale provided for by section 38, shall cause the proper process to be issued for the purpose of putting such purchaser in possession in the same manner as if the purchased lands had been decreed to the purchaser by a decision of the Court.

Contracts and payments binding on purchaser.

41. All contracts entered into by the defaulter with his tenants, and all payments to him by them shall be binding upon the purchaser to the same extent and under the same conditions as laid down in sections 32 and 33 of this Act.

Sale to be free of all incumbrances.

Disposal of surplus.

42. All lands brought to sale on account of arrears of revenue shall be sold free of all incumbrances, and if any balance shall remain after liquidating the arrears with interest and the expenses of attachment and sale and other costs due in respect to such arrears, it shall be paid over to the defaulter unless such payment be prohibited by the injunction of a Court of competent jurisdiction.

Recovery of arrears due to defaulter on day of sale.

43. Arrears of rent which on the day of sale may be due to the defaulter from his under-tenants shall, in the event of the sale, be recoverable by him after the sale by any process, except distraint, which might have been used by him for that purpose before the said sale.

Sale of land for arrears.

44. It shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to sell the whole or any portion of the land of a defaulter in discharge of arrear of revenue; provided always that, so far as may be practicable, no larger section of the land shall be sold than may be sufficient to discharge the arrears with interest, and expenses of attachment, management, and sale.

Apportionment of assessment on sub-division.

45. Where only a part of a landed estate held under a Sanad-i-Milkiyat-i-istimrar, or otherwise subject to the payment of a lump assessment, may be sold, the assessment upon such part shall be apportioned by the Collector previous to sale in manner following :—

The amount of revenue to be assessed on each division shall bear the same proportion to the actual value of such division as the total amount of the revenue of the whole estate may bear to the total actual value of the entire estate previous to such division.

Production of accounts.

To this end the Collector shall have power to demand from landholders and from the karnams of villages accounts of the produce and of the charges attending the management of lands to be divided; such landholders and karnams shall furnish the said accounts when required for a period of not less than three years next preceding the then current year; where the landholder may refuse or unreasonably delay to comply with such demand so as to prevent the assessment being fixed on such divided portions of land, the Collector shall proceed to sell the entire estate.

Effect of non-production.

46. [*Confirmation of apportionment by Board. Rep. by the Madras Decentralization Act*, 1914 (*Mad. Act VIII of* 1914).]

Sale may be postponed on tender of security.

47. When a defaulter tenders security, it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to accept it and postpone the sale of the defaulter's property upon such conditions and until such time as he may appoint; in the event of default being made in the performance of such conditions, the Collector or such officer may sell the property and proceed against the defaulter or against his security, or both

Powers of arrest in case of wilful or fraudulent non-payment of arrears.

48. When arrears of revenue, with interest and other charges as aforesaid cannot be liquidated by the sale of the property of the defaulter, or of his surety, and the Collector shall have reason to believe that the defaulter or his surety is wilfully withholding payment of the arrears, or has been guilty of fraudulent conduct in order to evade payment, it shall be lawful for him to cause the arrest and imprisonment of the defaulter, or his surety, not being a female, as hereinafter mentioned; but no person shall be imprisoned on account of an arrear of revenue for a longer period than two years, or for a longer period than six months, if the arrear does not exceed

Period of imprisonment.

Debt not extinguished.

Rs. 500, or for a longer period than three months, if the arrear does not exceed Rs. 50; provided that such imprisonment shall not extinguish the debt due to [1] [the State Government] by the defaulter, or his surety.

Procedure in case of arrest.

49. The Collector shall issue his warrant for the arrest of the defaulter, or his surety, or both, not being females, which shall specify his or their name, the amount of revenue due and the date on which it became payable, and the warrant shall be signed and sealed by the authority by whom it was issued. The officer charged with the execution of the warrant shall thereupon arrest the defaulter, or his surety, or both and convey him or them to the district gaol, and deliver the warrant to the gaoler, which shall be a sufficient authority to him to receive the prisoner or prisoners. A copy of such warrant shall be retained by the gaoler, who shall forthwith despatch the original to the officer in charge of the gaol.

Mode of enforcing payment by sureties.

50. All the remedies prescribed by this Act in case of revenue defaulters may be employed against their sureties, and it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to enforce the same simultaneously with, or either previously or subsequently to, their enforcement against the principal; so, nevertheless, that no more than the total sum in arrears, and interest with costs and charges, shall be realized from both.

Removal of crops may be prevented where revenue is payable in kind.

51. When land-revenue is payable in kind, it shall be lawful for the Collector or other officer empowered by the Collector in that behalf, to prevent the removal of the crop from the land until a division has been made, and the portion which belongs to [1] [the State Government] has been set apart, unless the landholder furnishes such security as the Collector may deem satisfactory.

Similar process in case of other species of revenue, advances, fees, cesses, etc.

52. All arrears of revenue other than land-revenue due to [1] [the State Government], all advances made by [1] [the State Government] for cultivation or other purposes connected with the revenue, and all fees or other dues payable by any person to or on behalf of the village servants employed in revenue or police duties, and all cesses lawfully imposed upon land [2] [and all sums due to the [3] (State) Government, including compensation for any loss or damage sustained by them in consequence of a breach of contract], may be recovered in the same manner as arrears of land-revenue under the provisions of this Act, unless the recovery thereof shall have been or may hereafter be otherwise specially provided for.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were inserted by section 2 of the Madras Revenue Recovery (Amendment) Act, 1939 (Madras Act XV of 1939).

[3] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

Process servers to be paid batta.

53. Persons employed in serving notices, or in other process under this Act, shall be entitled to batta at such rates as may, from time to time, be fixed by the Board of Revenue with the sanction of [1] [the State Government], and published in the District Gazette.

Interest and charges recoverable as arrears.

54. The batta mentioned in the foregoing section, as well as interest, and all costs and charges incurred under the authority of this Act, shall be recoverable from the defaulter and his sureties in the same manner as arrears of revenue.

Who to bear expense of countermanded sale.

55. Where property having been attached or distrained may be ordered to be put up for sale, and the sale may be countermanded, the proprietor shall, nevertheless, be responsible for the expenses incurred in consequence of the attachment or distraint, in the same manner as if the sale had taken place ; and in the event of such proprietor omitting to discharge the amount, it shall be recoverable by the process under which the original demand would have been recoverable.

Recovery thereof.

Receipts for payment of revenue.

56. Every person making a payment of revenue shall be entitled to a receipt for the same, signed by the Collector or other officer empowered by the Collector in that behalf ; such receipt shall state the name of the person making the payment and the subject-matter in respect of which it is paid, and, in case of land-revenue, shall describe the land on which the assessment is due and the names of the persons entered in respect thereof in the settlement account.

Procedure where defaulter or surety resides out of district.

57. Where a defaulter or his surety may reside or hold property out of the district wherein default shall have been made, the Collector of the district in which such defaulter or surety resides or holds property shall, on the written application of the Collector in whose district such default has been made, proceed in all respects against the defaulter and his surety, and his or their property in the same manner as if the default had been made in his own district. Every such application shall be signed and sealed by the Collector making it and shall be conclusive as to the amount due, and the party in arrear, in all proceedings against the Collector acting upon such application, or any person acting under his authority ; and no proof of the seal, or signature or official character of the Collector making the application shall be required, unless the Court shall see reason to doubt it genuineness ; provided always, that nothing herein contained shall affect the right of any party to sue in his own district the Collector who made the application.

Effect of Collector's application.

Saving of right to sue applicant.

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[1][A Collector may delegate all or any of his powers and duties under this section to any subordinate revenue officer not below the rank of Deputy Tahsildar.]

Cognizance of questions relating to rate of revenue.

58. No Court of Civil Judicature shall have authority to take into consideration or decide any question as to rate of land-revenue payable to [2][the State Government], or as to the amount of assessment fixed, or to be hereafter fixed on the portions of a divided estate.

Suits by persons aggrieved by proceedings.

Limitation.

59. Nothing contained in this Act shall be held to prevent parties deeming themselves aggrieved by any proceedings under this Act, except as hereinbefore provided, from applying to the Civil Courts for redress ; provided that Civil Courts shall not take cognizance of any suit instituted by such parties for any such cause of action, unless such suit shall be instituted within six months from the time at which the cause of action arose.

Survival of suits against Collector.

Liability for predecessor's acts.

60. No suit brought against any Collector by any person deeming himself aggrieved by anything done or purporting to be done under this Act, shall abate by reason of the departure from his district of the Collector against whom such suit shall have been brought ; but the suit shall be continued against the successor of such Collector in all respects as though it had been instituted against himself. A suit may be brought against any Collector in his official capacity on account of anything done or purporting to have been done under this Act by his predecessor, subject to the limitation prescribed in the preceding section ; provided that no Collector shall be personally liable for any official act of his predecessor.

Regulation V of 1822 not to apply to sales.

61. Regulation V of 1822[3] shall not be applicable to sales of property under this Act.

Regulations XXVIII of 1802, and I and II of 1803, not to apply to arrears.

62. Regulation XXVIII of 1802[3] and Regulations I and II of 1803 shall be inoperative as respects arrears of revenue recoverable under this Act.

Saving of Regulations V of 1804 and X of 1831.

63. Nothing in this Act shall be held to bar the operation of the provisions of Regulation V of 1804[4] and of Regulation X of 1831, in respect to the sale of lands of minors and other disqualified landholders.

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[1] This paragraph was added by the Madras Decentralization Act, 1914 (Madras Act VIII of 1914).

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] Repealed by Madras Act VIII of 1865, which has itself been repealed by Madras Act I of 1908.

[4] Repealed except as regards the Scheduled Districts by Madras Act I of 1902.

64. Nothing in this Act shall apply to the collection of land-revenue within the limits of the Town of Madras, as defined by section 12, Regulation II of 1802[1] of the Madras Code. Scope of Act.

65. [*Repeal of certain enactments.*] *Repealed by Central Act XII of* 1873.

66. [*Commencement of Act.*] *Repealed by Central Act XII of* 1873.

MADRAS ACT No. I OF 1865.[2]

[THE MADRAS DISTRICT LIMITS ACT, 1865.]

[*12th December 1864*; *5th January 1865.*]

An Act to provide for the alteration of the * * * [3] limits of Districts or Zilas in the Madras Presidency.

1. It shall be lawful for the [4] [State Government] [5][* * * * * * * *], from time to time, to alter the limits of existing districts or zilas [6] [* * * * * * * * * * *]. Power to alter limits of districts or zilas.

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[1] The whole Regulation has been repealed by the Madras Civil Courts Act, 1873 (Central Act III of 1873).

[2] Short title, "The Madras District Limits Act, 1865" was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

The whole of the Act, except so much as empowered by the Governor in Council to alter the limits of existing districts, was repealed by the Madras Civil Courts Act, 1873 (III of 1873). The Act has been extended by a notification under section 5 of the Scheduled Districts Act, 1874, to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553. The Act is in force in the rest of the Scheduled Areas also.

The Act is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1909.

[3] The words "Stations of Zillah Courts and" were repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901)—Third Schedule, Part III.

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[5] The words "of Fort St. George" were omitted by the Adaptation Order of 1937.

[6] The words "in any part of the Provinces subject to his control" were omitted by *ibid*.

MADRAS ACT No. V OF 1865.[1]

[THE MADRAS DISTRICT POLICE (AMENDMENT) ACT, 1865.]

[*7th April 1865* ; *28th April 1865*.]

An Act to amend Act XXIV of 1859.

Preamble.

WHEREAS it is expedient to amend Act XXIV of 1859 by giving power to any Magistrate in any case in which he shall impose a fine under that Act, and, where such fine shall not be forthwith paid, to apprehend and to detain, or to take security for the appearance of, any offender so fined and not forthwith paying his fine, until a return can be made to the Magistrate's warrant of distress; and whereas it is also expedient to lay down [2] [* * * * * * * * * * * * * * *] the course of procedure to be followed when no sufficient distress can be had; It is hereby enacted :—

Levy of forfeitures or penalties in case of non-payment.

1. All forfeitures or penalties imposed under the authority of Act XXIV of 1859, for offences punishable by a magistrate, may, in case of non-payment thereof, be levied by distress and sale of the property of the offender within the limits of jurisdiction of the magistrate of the district, by warrant under the hand of the magistrate who made the order.

Offender may be detained or compelled to give security, if fine, etc., be not forthwith paid.

2. In case any fine, forfeiture or penalty shall not be forthwith paid, the magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to the warrant of distress, unless the offender shall give security to the satisfaction of the magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

When offender may be imprisoned.

3. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the magistrate, by the confession of the offender or otherwise, that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the magistrate may, by warrant

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[1] Short title, "The Madras District Police (Amendment) Act, 1865" was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

The Act has been extended, by notification under section 5 of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to the taluks of Bhadrachalam and Rakapilli in the Godavari district—*see Fort St. George Gazette*, 1879, Pt. I, p. 722, and *Gazette of India, ibid*, p. 630.

The Act is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1909.

[2] The words "with respect to offenders who are and who are not British subjects respectively," were omitted by the Adaptation (Amendment) Order of 1950.

under his hand, commit the offender, [1][* * * * * * * * * * *] to prison, there to be imprisoned, according to the discretion of the Magistrate, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case ; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

[2][4. * * * * * * * * * *.]

5. This Act shall be read with, and be taken to, be part of Act XXIV of 1859. Construction.

MADRAS ACT No. VI OF 1865.[3]

[THE MADRAS OFFICIAL SEALS ACT, 1865.]

[*29th July, 1865* ; *19th August, 1865.*]

An Act to enable the Governor in Council to direct and prescribe] what official seals Collectors, Magistrates and other Public Officers shall have and use.

WHEREAS it is expedient that provision should be made for enabling the Governor in Council, from time to time, to direct and prescribe what official seals shall be used by Collectors, Magistrates and other public officers; It is enacted as follows :— Preamble.

1. * * *[4] It shall be lawful for the [5][State Government], from time to time, to direct and prescribe what official seals shall be used by Collectors, Magistrates and other public officers, any Regulation or Act to the contrary notwithstanding. Power to prescribe official seals.

2. [*Repeal of Regulation II of* 1803, *section* 10.] *Rep. by the Repealing Act,* 1873 (*Central Act XII of* 1873).

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[1] The words "provided he is not a European British subject" were omitted by the Adaptation (Amendment) Order of 1950.

[2] Section 4 was omitted by *ibid.*

[3] Short title, "The Madras Official Seals Act, 1865" was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

The Act was extended, by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the taluks of Bhadrachalam and Rakapilli in the Godavari district—*see Fort St. George Gazette*, 1879, Pt. I, p. 722, and *Gazette of India, ibid*, p. 630. It has been declared in force in the Rampa Country—*see Gazette of India*, 1879, Pt. I, p. 630.

The Act is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1909.

[4] Certain formal words have been repealed by Central Act XII of 1873.

[5] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

MADRAS ACT No. VII OF 1865.[1]

[THE MADRAS IRRIGATION CESS ACT, 1865.]

[*29th July 1865* ; *7th September 1865.*]

An Act to enable the Government to levy a separate cess for the use of water supplied for irrigation purposes in certain cases.

Preamble.

WHEREAS, in several districts of the Madras Presidency, large expenditure out of Government funds has been, and is still being, incurred in the construction and improvement of works of irrigation and drainage, to the great advantage of the country and of proprietors and tenants of land ; and whereas it is right and proper that a fit return should, in all cases alike, be made to Government on account of the increased profits derivable from lands irrigated by such works ; It is enacted as follows :—

Power to levy watercess in addition to assessment on land.

[2] [1 (1)] (*a*) Whenever water is supplied or used for purposes of irrigation from any river, stream, channel, tank or work belonging to, or constructed by or on behalf of, the [3] [Government], and

(*b*) whenever water from any such river, stream, channel, tank or work, by direct flow or percolation, or by indirect flow, percolation or drainage from or through adjoining land, irrigates any land under cultivation, or flows into a reservoir and thereafter, by direct flow or percolation, or by indirect flow, percolation or drainage from or through adjoining land, irrigates any land under cultivation, and in the opinion of the Revenue Officer empowered to charge watercess,

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[1] Short title, " The Madras Irrigation Cess Act, 1865 "—*see* the Repealing and Amending Act, 1901 (Central Act XI of 1901).

The Act was extended, under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 871, *Fort St. George Gazette*, 1898, Pt. I, p. 667. The Act is in force in the rest of the Godavari Agency.

The Act has been extended by a notification under s. 5 of the Scheduled Districts Act, 1874, to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Act has been declared by a notification under section 3, clause (*a*) of the Scheduled Districts Act, 1874 to be in force in the Muttas of Dutcharti, and Guditeru of the Godavari Agency—*see ibid.*

See the Bhavani Reservoir Irrigation Cess Act, 1933 (Madras Act XVI of 1933).

[2] Section 1, as substituted for the original sections 1 and 4 by Madras Act V of 1900, was substituted by new section 1 by section 2 of the Madras Irrigation Cess (Amendment) Act, 1940 (Madras Act VI of 1940). The new section was renumbered as sub-section (1) of section 1 by section 2 (1) of the Madras Irrigation Cess (Amendment) Act, 1945 (Madras Act III of 1945). The two last-mentioned Acts were permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[3] This word was substituted for the word " Crown " by the Adaptation Order of 1950.

subject to the control of the Collector and the Board of Revenue, such irrigation is beneficial to, and sufficient for the requirements of, the crop on such land,

it shall be lawful for the [1] [State] Government before the end of the revenue year succeeding that in which the irrigation takes place [2] [to levy at pleasure a separate fee for such water (hereinafter referred to as the water-cess)], and the [1] [State] Government may prescribe the rules under which, and the rates at which, such water-cess shall be levied, and alter or amend the same from time to time :

Provided that where a zamindar or inamdar or any other description of landholder not holding under ryotwari settlement is by virtue of engagements with the [3] [Government] entitled to irrigation free of separate charge, no [4] [water-cess] under this Act shall be imposed for water supplied to the extent of this right and no more : Provisos.

[5] [Provided further that a zamindar or inamdar or any other description of landholder not holding under ryotwari settlement shall be liable to pay the water-cess under this Act except to the extent to which he is entitled to irrigation free of separate charge under the first proviso :]

Provided also that [6] [no water-cess shall be leviable under this Act in respect of water supplied or used for the irrigation of land held under ryotwari settlement which is classified and assessed as wet, unless the land be irrigated], whether voluntarily or involuntarily and whether wholly or in part—

(i) from any source hereinbefore mentioned, not being a source which has been assigned by the Revenue authorities or adjudged by a competent Civil Court as the source of irrigation of such land ; or

(ii) from any source assigned or adjudged as aforesaid in respect of such land, otherwise than in accordance with any notification or order of the [7] [State] Government

[1] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

[2] These words were substituted for the words " to levy at pleasure on the land so irrigated a separate cess for such water " by the Madras Irrigation Cess (Amendment) Act, 1945 (Madras Act III of 1945). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[3] This word was substituted for the word " Crown " by the Adaptation Order of 1950.

[4] This word was substituted for the word " cess " by section 2 (1) of the Madras Irrigation Cess (Amendment) Act, 1945 (Madras Act III of 1945). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[5] This proviso was inserted by *ibid.*

[6] These words were substituted for the words " no cess shall be leviable under this Act in respect of land held under ryotwari settlement which is classified and assessed as wet, unless the same be irrigated " by *ibid.*

[7] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

or of any authority subordinate to them, regulating or specifying the time, method and conditions of supply of water for the irrigation of such land from such source and the number of crops which may be irrigated on such land with such supply, free of separate charge.

[1][(2) For the avoidance of doubt it is hereby declared that water-cess leviable under this Act is not a tax on land but is a fee for the water supplied or used for the irrigation of land.]

Rules for the recovery of water-cess from the landholder and the ryot.

[2]**1-A.** (1) [3][In respect of water supplied or used for the irrigation of land included in an estate the water-cess due under this Act shall], notwithstanding anything contained in the Madras Revenue Recovery Act, 1864, be leviable in accordance with such rules as the [4] [State Government] may, after previous publication, prescribe in that behalf— Madras Act II of 1864.

(*a*) from the landholder [5] or

(*b*) from the ryot [5] or

(*c*) in shares from both.

(2) The amount payable by a landholder [6] or a ryot [5] under this Act shall be a first charge upon his interest in the land.

[6] * * * *

(4) Nothing contained in this section shall affect the rights and liabilities of the landholder and the ryot *inter se* under any contract, express or implied, in regard to the payment of water-cess.

Rules to have effect as if enacted in the Act.

[7] [**1-B.** All rules made under this Act shall have effect as if enacted in this Act.]

Water-cess, how recoverable.

2. Arrears of water-cess payable under this Act shall be realized in the same manner as arrears of land-revenue are or may be realized by law [8] in the Madras Presidency.

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[1] This sub-section was added by section 2 (2) of the Madras Irrigation Cess (Amendment) Act, 1945 (Madras Act III of 1945). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[2] Section 1-A was inserted by section 4 of Madras Act II of 1913.

[3] These words were substituted for the words " In the case of land included in an estate the cess due under this Act shall " by section 3 of the Madras Irrigation Cess (Amendment) Act, 1945 (Madras Act III of 1945). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[4] The words " Provincial Government " were substituted for the word " Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[5] As to meaning of these words, *see* section 2 of Madras Act II of 1913.

[6] Sub-section (3) was omitted by section 3 of Madras Act VI of 1920.

[7] This section was inserted by section 3 of the Madras Irrigation Cess (Amendment) Act, 1940 (Madras Act VI of 1940). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[8] *See* Madras Act II of 1864.

3. No action or other proceeding shall be had or taken, or be sustainable, against any officer for anything done by him previous to the passing of this Act, in or relating to, the imposition or levying of any such water-rates heretofore imposed or levied with the sanction of the [1] [State Government]. Indemnification for acts done before passing of Act.

[2] * * * *

MADRAS ACT No. II OF 1866. [3]

[THE MADRAS CATTLE-DISEASE ACT, 1866.]

[*16th March 1866*; *17th April 1866.*]

An Act for the prevention of the spread of disease among cattle in the Madras Presidency.

WHEREAS it is expedient to take measures to prevent the spreading of contagious or infectious diseases among animals in the Presidency of Madras, and, with that object, to prescribe by law in what way animals so infected shall be dealt with; It is hereby enacted as follows:— Preamble.

1. This Act shall be put in force in such districts, or parts of district and during such periods of time, as the [4] [State Government] [5] [or subject to [6] (their) control the Board of Revenue] may, from time to time, direct by notification in the [7] [Official Gazette]. Act to be extended to such places, and during such period of time, as the State Government think proper.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] As to original section 4, *see* footnote to-section 1 supra.

[3] Short title, "The Madras Cattle-disease Act, 1866" was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

This Act has been extended by notification under section 5 of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to the taluks of Bhadrachalam and Rakapilli in the Godavari district—*see Gazette of India*, 1879, Part I, p. 630, and *Fort St. George Gazette*, *ibid*, p. 722.

Madras Act I of 1879 is to be read with this Act.

The Act is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Central Regulation I of 1909.

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[5] These words were inserted by the Madras Decentralization Act, 1914 (Madras Act VIII of 1914).

[6] This word was substituted for the word "his" by the Adaptation Order of 1937.

[7] These words were substituted for the words "*Fort St. George Gazette*" by *ibid.*

Interpretation-clause.

2. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction :—

"Magistrate."

the word "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate :

Number.

words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number :

Gender.

words importing the masculine gender shall include the feminine :

"Animal."

the word "animal" shall mean any camel, buffalo, horse, pony, ass, bull, bullock, cow, heifer, calf, sheep, lamb, goat, kid or swine.

Establishment of hospital-pounds.

3. Whenever this Act shall have been applied, as above provided, to any district, or part of a district, hospital-pounds shall be established in such places as the Magistrate of the district, [1] [or, in the City of Madras] [2] [the Commissioner of the Corporation] shall determine, and keepers shall be appointed to such pounds by the said Magistrate. [3] [Or Commissioner, as the case may be].

The village or villages by which every hospital-pound is to be used shall be determined and notified by the Magistrate.

Notice by owner of cattle attacked by disease.

4. Whenever, in any district or part of a district to which this Act has been extended as above provided, any animal is attacked by any contagious or infectious disease, it shall be the duty of the owner, or of the person in charge thereof, to give immediate notice to the keeper of the hospital-pound provided for the village or township in which the animal may at the time be.

Examination by pound keeper.

5. On receiving notice as aforesaid, the keeper of the hospital-pound shall, as soon as possible, examine the animal and shall decide whether it is necessary to place it in the hospital-pound for treatment.

Removal to the hospital-pound.

[4] [**6.** If the keeper of the hospital-pound should be of opinion that the animal has any contagious or infectious disease, he may thereupon require the owner of the animal or the person in charge thereof to place it in the hospital-pound.]

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[1] These words were inserted by Madras Act I of 1879, s. 1.

[2] These words were substituted for the words "the President of the Municipal Commission" by s. 3 of the Madras Cattle-disease (Amendment) Act, 1921 (Madras Act III of 1921).

[3] These words were added by section 3 (1) for and the second schedule to the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

[4] Section 6 was substituted by section 2, *ibid*.

Inspection of places in which animals suspected to be diseased, are found.

7. Every keeper of a hospital-pound, or person thereto authorized by the Magistrate of the district, [1] [or, in the City of Madras] [2] [the Commissioner of the Corporation,] shall have power, within the range for which he is appointed, to enter upon and inspect any premises or place in which any animal or animals, which he suspects to be labouring under any contagious or infectious disease, may be found, and to examine and inspect, whenever or wherever he may deem necessary, any animal or animals which he suspects to be labouring under such disease, and to require the removal of such animal or animals to the hospital-pound for the range.

Cleansing of premises in which diseased animal has been or is. Disinfection of fodder, etc.

8. Every keeper of a hospital-pound, or person thereto authorized by the Magistrate of the district, [1] [or, in the City of Madras,] [2] [the Commissioner of the Corporation,] shall have power, within his range, to cause to be cleansed and disinfected, in any manner which he may think proper, any premises in which any animal labouring under any contagious or infectious disease has been or may be, and to cause to be disinfected, and, if necessary destroyed, any fodder, manure or refuse-matter which he may deem likely to propagate the said disease.

Expenses for food and treatment by whom to be borne.

9. From the time when any animal affected as aforesaid is taken charge of by the keeper of the hospital-pound, all expenses incurred on account of feeding and medical treatment for the said animal shall be borne by the cattle-pound fund established under Act III of 1857 [3] unless the owner, or person in charge thereof, desires to supply the food and medicines himself: Provided always that such food and medicines shall be such as the keeper of the hospital-pound may approve or direct.

Power to destroy diseased animals.

10. The keeper of the hospital-pound, or other person thereto authorized by the Magistrate of the district, [1] [or, in the City of Madras,] [2] [the Commissioner of the Corporation,] shall be empowered to destroy any animal either before or after it has been impounded as aforesaid, whenever it shall appear to him to be necessary to prevent the spread of contagion or infection.

Burial of carcass.

When any animal shall have been so destroyed, or shall die whilst in charge of the keeper of the hospital-pound, it shall be the duty of the said keeper to have the carcass of the said animal buried at least six feet below the surface of the ground, and any cost incurred in so doing shall be met from the cattle-pound fund.

Bar of claim to compensation.

No compensation shall be claimable in respect of any loss incurred by reason of any act authorized by this section.

[1] These words were inserted by Madras Act I of 1879, s. 1.

[2] These words were substituted for the words "the President of the Municipal Commission" by s. 3 of the Madras Cattle Disease (Amendment) Act, 1921 (Madras Act III of 1921).

[3] The references to this Act should be read as if made to the Cattle-trespass Act, 1871 (Central Act I of 1871), *vide* s. 2 of the latter Act.

Owner to pay costs for animal cured.

11. Should an animal impounded as aforesaid recover from the disease under which it may have been labouring, the owner or person who was in charge thereof shall pay to the keeper of the hospital-pound, to be placed to the credit of the cattle-pound fund, the actual cost of the feeding and treatment of such animal.

Recovery in case of default.

Should he fail to pay the expenses aforesaid, then the said animal shall be sold by auction, and the sum realized by its sale, after deducting the amount of the expenses, shall be paid over to the owner, or the person who was in charge :

Owner when not chargeable.

Provided always that, in such cases as the owner or person who was in charge may elect to supply food and medicine, he shall not be required to pay any charges whatever.

Bar to removal, without licence, of animal in contact with diseased cattle.

12. No person having in his possession or under his custody, any animal which has been in the same shed or stable, or in the same herd or flock, or in contact, with any animal labouring under any contagious or infectious disease, shall remove such animal alive from his land or premises without the licence of the keeper of the hospital-pound for the range, or of some person authorized by the Magistrate of the district, [1] [or, in the City of Madras,] [2] [the Commissioner of the Corporation] to grant such licence.

Licences.

Every such licence shall be in writing, and shall only permit the removal of such animal to some place where it can be conveniently kept apart from all other animals, until the hospital pound-keeper or other person authorized as aforesaid, is satisfied that there is no reasonable probability of such animal propagating the disease.

Penalty for failing to give notice when animal is attacked by disease.

13. If any person who may be in charge of any animal at the time of its being attacked by a contagious or infectious disorder shall fail to give notice to the hospital pound-keeper of the village, as required in section 4, the said person shall be liable, on conviction before a Magistrate, to a fine not exceeding rupees five for every instance of such neglect, commutable, if not paid, to simple imprisonment for any period not exceeding ten days.

Penalty for refusing to obey directions of cattle pound-keeper, etc.

14. Any person who shall fail to comply with the directions of a hospital pound-keeper, or of a person duly authorized by the Magistrate of the district, [1] [or, in the City of Madras] [2] [the Commissioner of the Corporation] in that behalf, as to the impounding any diseased animal ; or to the disinfecting any premises or place where any diseased animal may have been kept ; or to the disinfecting or destroying any fodder, manure and refuse-matter which may be likely to propagate the disease ; or who may remove, without a licence, any animal which has been in the same shed or stable, or in the

[1] These words were inserted by Madras Act I of 1879, s. I.

[2] These words were substituted for the words " the President of the Municipal Commission " by s. 3 of Madras Act III of 1921.

same herd or flock, or in contact with any animal labouring under any contagious or infectious disease,—shall, on conviction before a Magistrate, be liable, for every such offence, to a fine of twenty rupees, commutable, if not paid, to simple imprisonment for any period not exceeding ten days.

Penalty for opposing seizure and impounding of diseased animals.

[1] [**15.** In any district or part of a district in which this Act is in force, hospital pound-keepers, all police officers not below the rank of a sub-inspector and such other persons as the Magistrate of the district or, in the City of Madras, the Commissioner of the Corporation, may specially empower, may seize and impound all animals suffering from contagious or infectious disease, and any person who shall forcibly oppose such seizure, or who shall forcibly rescue the animals after such seizure, shall be deemed to have committed an offence punishable under section 186 of the Indian Penal Code.]

Central Act XLV of 1860.

Complaint of seizure by owner.

16. Any person whose animals shall have been seized as being diseased may prefer a complaint against the seizure, at any time within ten days from the date thereof, to any Magistrate.

Form of complaint.

The complaint may be either verbal, in which case the substance of it shall be taken down in writing by the Magistrate, or written upon plain paper, and shall be preferred by the complainant in person, or by an agent personally acquainted with the circumstances.

Procedure thereon.

If, on examination of the complainant or his agent, the Magistrate shall see reason to believe the complaint to be well founded, he shall summon the party complained against; and shall proceed to make a summary inquiry into the case.

If the seizure be adjudged illegal, the Magistrate shall award to the complainant such damages as he may deem to be a reasonable compensation for any loss or injury sustained from the unlawful seizure, together with all expenses incurred by the complainant in procuring the release of the animals; or, if the animals have not been released, the Magistrate, in addition to the award of damages, shall make an order for their release, and shall direct that the expenses leviable under this Act shall be paid by the party who made the seizure.

The amount of all damages and expenses so awarded shall be recoverable according to the process prescribed in Act No. V of 1865 (Madras) for the recovery of forfeitures or penalties imposed under the authority of Act XXIV of 1859.

Fees and fines to be credited to the revenues of the State.

17. All fines levied under this Act shall be credited to [2] [the revenues of the State] :

[1] Section 15 was substituted for the original section by s. 2 of Madras Act III of 1921.

[2] The words " the revenues of the Province " were substituted for the words " the cattlepound fund established under the provisions of Act III of 1857, which fund shall be available for payment of all expenses incurred under the provisions of this Act " by the Adaptation Order of 1937 and the word " State " was substituted for " Province " by the Adaptation Order of 1950. Now the consolidated fund of the State.

Reward to informer.

Provided that it shall be lawful for the officer inflicting a fine under this Act to direct any portion thereof, not exceeding one-half, to be paid to the informer.

Power to make by-laws.

18. It shall be lawful for the [1] [State Government] by notice published in the [2] [Official Gazette] to make and prescribe such by-laws as may from time to time seem necessary for the more effectually preventing the spreading of infectious or contagious diseases among animals; provided that such by-laws shall not be repugnant to the provisions of this or any other Act.

Penalty for breach.

A breach of any such by-laws shall render the party liable on conviction before a Magistrate, to a fine not exceeding rupees ten, commutable to simple imprisonment for fifteen days.

MADRAS ACT No. IV OF 1866. [3]

[THE MADRAS ENFRANCHISED INAMS ACT, 1866.]

[*30th August 1866*; *24th September, 1866.*]

An Act to exempt enfranchised village or other service inams, whether Revenue or Police, from the operation of Regulation VI of 1831 [4].

Preamble.

WHEREAS in the Madras Presidency certain inams attached to hereditary village or other officers in the Revenue and Police Departments—the claims connected with which are, under the provisions of Regulation VI of 1831, [4] exclusively adjudicable by the officers of Government in the Revenue Department—have been, and may yet be, under sanction of Government, enfranchised from the condition of service and

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[3] Short title, "The Madras Enfranchised Inams Act, 1866" was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901). As to the true intent and meaning of this Act, *see* Madras Act VIII of 1869.

The Act has been extended by a notification under section 5 of the Scheduled Districts Act, 1874, to the Ganjam and Vizagapatam Agencies, the taluk of Bhadrachalam and the Muttas of Guditeru and Dutcharti in the East Godavari Agency. *See Fort St. George Gazette*, 1930, Pt. I, p. 553. It is also in force in the rest of the Godavari Agency except the Nugur taluk.

[4] Regulation VI of 1831 has been repealed except in the Scheduled Districts by the Madras Hereditary Village Offices Act, 1895 (Madras Act III of 1895).

placed in the same position as other descriptions of landed property, in regard to their future succession and transmission ; It is hereby enacted as follows :—

Regulation VI of 1831 not to apply to enfranchised service-inams.

1. All hereditary village or other service inams, falling hitherto exclusively under the cognizance of the officers of Government in the Revenue Department, under the provisions of Regulation VI of 1831 [1] which have been or shall be enfranchised from the condition of service by the Inam Commissioner, or other officer acting under the sanction of [2] [the State Government], shall be exempt from the operation of the aforesaid Regulation.

Evidence of enfranchisement.

2. The title-deed issued by the Inam Commissioner or other officer duly authorized or an authenticated extract from the register of the Commissioner or other officer, shall be deemed sufficient proof of the enfranchisement of the land previously held on service tenure.

Act not to have retrospective effect.

3. Provided that nothing in this Act shall be construed as authorizing any Court of Civil Judicature to call into question decisions affecting any service inams which may have been already passed by revenue officers acting under the provisions of Regulation VI of 1831 [1] prior to the enfranchisement of such inams.

MADRAS ACT No. I OF 1867. [3]

[THE MADRAS GENERAL CLAUSES ACT, 1867.]

[*15th February 1867* ; *21st March 1867*.]

An Act to shorten the language used in Acts of the Governor of Fort St. George in Council, and to make certain provisions relating thereto.

Preamble.

WHEREAS it is expedient to enact once for all certain definitions of terms usually employed in the Acts of the

[1] Regulation VI of 1831 has been repealed except in the Scheduled Districts by the Madras Hereditary Village Offices Act, 1895 (Mad. Act III of 1895).

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This Act does not apply to any Act passed after 1st January 1892—*see* Madras General Clauses Act, 1891 (Mad. Act I of 1891), *s.* 2.

The Act has been extended by a notification under section 5 of the Scheduled Districts Act, 1874, to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

Governor of Fort St. George in Council, and to make certain other provisions regarding such Acts ; It is enacted as follows :—

Meaning of words defined in Penal and Criminal Procedure Codes.

1. Whenever, in any future Act of the Governor of Fort St. George in Council, any word or expression shall be employed which has been defined in Chapter II of the Indian Penal Code, or in Chapter I of the Code of Criminal Procedure,[1] such word or expression shall be taken to have the meaning assigned to it in those chapters, unless it be otherwise provided by the Act, or unless there be something either in the subject or context repugnant to such construction.

"Magistrate of Police."

2. *First.*—The words "Magistrate of Police" shall denote any person exercising the powers of a Magistrate of Police within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras for the time being.

"Town of Madras."

Second.—The words "Town of Madras" shall denote such places as are within the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Madras.

Repeal of Act not to revive laws repealed thereby.

3. Where any Act, repealing in whole or in part any former enactment, is itself repealed, such last repeal shall not revive the enactment, or any of the provisions thereof, before repealed, unless words be added reviving such enactment or provisions.

Matters prior to repeal unaffected.

4. The repeal of any Act or Regulation shall not affect any act which shall have been done, or any offence which shall have been committed, or any fine or penalty which shall have been incurred, or any proceedings which shall have been commenced, before the repealing Act shall have come into operation.

Commencement of future Acts.

5. Where in any future Act of the Governor of Fort St. George in Council no time is mentioned at which the same shall come into operation, such Act shall take effect from such date as the [2] [State Government] may notify by publication in the [3] [Official Gazette].

6 & 7. [*Judicial notice of Madras Acts*: *recital of public fact to be prima facie evidence of its truth.*] *Rep. by the Repealing and Amending Act*, 1874 (*XVI of* 1874).

Short title.

8. This Act may be cited for all purposes as the Madras General Clauses Act, 1867.

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[1] *See* Central Act V of 1898.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

MADRAS ACT No. VI OF 1867.[1]

[THE MADRAS CITY LAND-REVENUE (AMENDMENT) ACT, 1867.]

[*28th May 1867* ; *27th June 1867*.]

An Act to amend Act XII of 1851 (an Act for securing the Land-revenue of Madras.)

Preamble.

WHEREAS, in the preamble to Act XII of 1851, it is declared to be expedient that the land-revenue accruing due to the [2][Government of Madras] within the town of Madras should be ascertained and collected in as summary a manner as in other parts of the territories under the said Government, and it is enacted in section 9 of the said Act that the claim of the Government for land-revenue has priority over all claims upon the land ; and whereas in other parts of the said territories the land itself is the security for the revenue assessed thereon and is liable to be sold for the discharge of arrears, and there is no sufficient reason for exempting land situated within the town of Madras from the same liability ; and whereas it is expedient to give additional powers to the distraining officer appointed by the Collector of Madras under section 7 of the said Act ; It is hereby enacted as follows :—

"Revenue" defined.

1. The word "revenue," as used in this Act, shall mean assessment, quit-rent, ground-rent or other charge upon the land payable to the Government.

2. [*Repeal of Act XII of* 1851, *s.* 7.] *Rep. by the Repealing Act*, 1873 (*XII of* 1873).

Security for revenue.

3. The land and the buildings thereon shall be regarded as the security of the public revenue.

In default of payment, Collector to recover revenue by distress and sale of movable property.

4. Whenever any owner, tenant or occupier of land subject to the payment of revenue to the Government, or whenever any person holding such land shall, upon the written demand of the Collector, or any officer duly empowered to act on the Collector's behalf, refuse or neglect to pay any sum with which the land is charged as revenue, the Collector shall, proceed for the recovery of such revenue by distress and sale of the movable property of the owner wherever found, or, in the case of the tenant or occupier or holder of the land, by distress and sale of any movable property found upon such land.

Collector may sell lands, if arrears not recoverable by distress.

If, however, the Collector shall not be able to recover the arrears due by distress and sale of the movable property as aforesaid, it shall be lawful for the Collector to cause the land

[1] Short title, "The Madras City Land-revenue (Amendment) Act, 1867" was given by the Repealing and Amending Act, 1901 (Central XI of 1901).

[2] These words were substituted for the words "Government of India" by the Adaptation (Amendment) Order of 1950.

and buildings thereon to be sold for the arrear which has accrued due thereon, in the manner hereinafter provided.

Interest on arrears.

5. Arrears of revenue accruing on land within the town of Madras shall bear interest at the rate of six per cent per annum.

Rules as to seizure and sale of movable property.

6. In the seizure and sale of movable property for arrears of revenue, the following rules shall be observed :—

Collector to furnish distrainer with demand in writing.

First.—The Collector shall employ a person, hereinafter called the distraining officer, to distrain the property, and shall furnish to such officer a demand in writing signed by the Collector, or by some officer empowered by him in that behalf, specifying the amount of the arrear for which the distress shall be issued, and the date on which the arrear fell due.

Copy to defaulter

Second.—The distraining officer shall produce the writing as authority for making the distress, and on the day on which the property shall be distrained shall deliver a copy of such writing to the defaulter, endorsing thereon a list or inventory of the property distrained, and the name of the place where the property may be lodged or kept.

Writing to state that property will be sold.

Third.—The writing shall further set forth that the distrained property will be brought to public sale within seven days, unless the amount of the arrear with interest and all expenses of the distress be previously discharged.

Service when defaulter absent.

Fourth.—When a defaulter shall be absent, a copy of the writing, with the endorsement, shall forthwith be fixed or left at his usual place of residence.

Procedure when defaulter neglects to pay after notice.

7. When a defaulter, on receiving notice, shall neglect to pay the amount due, or when a defaulter shall have absconded or be otherwise not forthcoming, so that the notice cannot be served upon him, the distraining officer shall transmit an inventory of the property distrained to the Collector.

Effect of tender of arrear and expenses prior to sale.

8. If a defaulter whose property has been distrained shall, before the day of sale, tender payment of the arrear demanded, together with interest and all expenses attending the distress, the distraining officer shall receive the amount of the arrear, interest and expenses, and shall forthwith release the property.

Distress proportionate to arrear.

9. The distress levied shall not be excessive, and the value of property distrained shall be, as nearly as possible, proportionate to the amount of the arrear.

Time for distress.

10. The distress shall be made after sunrise and before sunset, and not at any other time.

What places distrainer may force open.

11. The distraining officer shall have power to force open any stable, cow-house, granary, store-house, out-house or other building, as also to enter any dwelling-house the outer

door of which may be open (excepting the apartments in such dwelling-house appropriated for the zenana or residence of women, which, by the usage of the country, are considered private), and to break open the door of any room in such dwelling-house for the purpose of attaching property liable to attachment under this Act.

Distrainer's power to force open doors in presence of Police-officer.

12. Where a distraining officer shall have reason to suppose that the property liable to attachment under this Act is lodged within a dwelling-house the outer door of which may be shut, or within any apartments appropriated to women, which, by the usage of the country, are considered private, such officer shall represent the same to the officer in charge of the nearest police-station within the limits of the town of Madras; and, on such representation, the officer in charge of the said station shall send a Police-officer to the spot, in the presence of whom the distraining officer may force open the outer door of such dwelling-house.

Distraint within zenanas.

13. The distraining officer may also, in the presence of the Police-officer, after due notice given for the removal of women within a zenana, and after furnishing means for their removal in a suitable manner, if they be women of rank who, according to the custom of the country, cannot appear in public, enter the zenana apartments for the purpose of distraining the defaulter's property therein; but such property, if found shall be immediately removed from such apartments, after which they shall be left free to the former occupants.

Demand to be served prior to attachment of land.

14. Before the Collector, or other officer empowered by the Collector in that behalf, proceeds to attach the land of a defaulter, or buildings thereon, he shall cause a written demand to be served upon the defaulter, specifying the amount due, the land in respect of which it is claimed, the name of the party in arrear, the batta due to the person who shall serve the demand, and the time allowed for payment, which shall be seven days from the date of service upon him.

Mode of service.

Such demand shall be served by delivering a copy to the defaulter, or to some adult male member of his family at his usual place of abode, or to his authorized agent, or by affixing a copy thereof on some conspicuous part of his last-known residence, or on some conspicuous part of the land about to be attached.

Procedure on non-payment.

15. When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Collector, or other officer empowered by the Collector in that behalf, he shall proceed to recover the arrear by the attachment and sale of the defaulter's land in the following manner.

Mode of attachment.

16. The attachment shall be effected by affixing a notice thereof to some conspicuous part of the land.

The notice shall set forth that unless the arrear, with interest and expenses, be paid within the date therein mentioned, the land will be brought to sale in due course of law.

The attachment shall be notified by the public proclamation on the land, and by publication of the notice in the official Gazette of the Madras district.

Persons interested in land may release it from attachment.

17. It shall be lawful for any person claiming an interest in land which has been or is about to be attached to obtain its release by paying the arrears, interest and costs incurred; and all such sums, if paid by a tenant, may be deducted from any rent then or afterwards due by him to the defaulter; and if paid by a *bona fide* mortgagee or other incumbrancer upon the estate, shall constitute a debt from the defaulter to him, and shall be a charge upon the land, but shall, in the absence of any valid engagement to the contrary, only take priority over other charges according to the date at which the payment was made.

Rules as to sale of immovable property.

18. In the sale of immovable property under this Act the following rules shall be observed:—

Public auction.

First.—The sale shall be by public auction to the highest bidder.

The time and place of sale shall be fixed by the Collector or other officer empowered by the Collector in that behalf.

Notification before sale.

Second.—Previous to the sale, the Collector, or other officer empowered by the Collector in that behalf, shall issue a notice thereof in English and in Tamil or Hindustani, specifying the name of the defaulter; the position and extent of land and of the buildings thereon; the amount of revenue assessed on the land, or upon its different sections; the proportion of the public revenue due during the remainder of the current revenue-year; and the time, place and conditions of sale.

This notice shall be fixed up one month at least before the sale in the Collector's office, in the nearest police-station-house, and on some conspicuous part of the land.

Deposit at time of purchase.

Third.—A sum of money equal to fifteen per cent of the price of the lands shall be deposited by the purchaser in the hands of the Collector, or other officer empowered by the Collector in that behalf, at the time of the purchase; and where the remainder of the purchase-money may not be paid within thirty days, the money so deposited shall be liable to forfeiture.

Re-sale in default of payment.

Fourth.—If the purchaser refuse or omit to deposit the said sum of money or to complete the payment of the remaining purchase-money the property shall be re-sold at the expense

and hazard of such purchaser; and the amount of all loss or expense which may attend such refusal or omission shall be recoverable from such purchaser in the same manner as arrears of public revenue.

Agents to name principals.

If the lands, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

Fifth.—All persons bidding at a sale may be required to state whether they are bidding on their own behalf or as agents, and in the latter case to deposit a written authority signed by their principal.

If such requisition be not complied with, their bids may be rejected.

Certain provisions of section 18 not to apply to cases of purchase by Government.

[1] [18-A. The provisions of the Third and Fourth clauses of section 18 shall not apply to cases where immovable property sold under this Act is purchased by the Government].

Tender of arrears up to sunset on day before sale.

19. It shall be competent to the defaulter or to any person acting on his behalf, or claiming an interest in the land, to tender the full amount of the arrears of revenue with the interest thereon, and all charges which have been incurred in demanding the arrears, or in attaching the property , or in taking the steps necessary for sale, and thereupon the sale shall be stayed:

Provided always that such tender must be made before sunset on the day previous to that appointed for the sale; and all sums so paid by any tenant or *bona fide* mortgagee, or other incumbrancer, may be recovered in the manner provided in section 17.

Purchaser to be registered.

20. Lands purchased at a public sale shall be registered in the name of the actual purchaser, who shall receive a certificate of sale signed and sealed by the Collector, which shall be conclusive evidence of the fact of the purchase in all Courts and Tribunals where it may be material to establish the same; and no proof of the Collector's seal or signature shall be necessary, unless the authority before whom it is produced shall have reason to doubt its genuineness.

Effect of certificate.

Proclamation of sale.

21. When lands may be purchased at public sale, the Collector, or other officer empowered by the Collector in that behalf, shall publish in the villages in which the land sold may be situated, in the Collector's kachari, and in the official

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[1] This section was inserted by s. 3 of the Madras Revenue Recovery and City Land-Revenue (Amendment) Act, 1937 (Madras Act XIV of 1937).

The Madras City Land-revenue (Amendment) Act, 1867, should be read and construed as if section 18-A had formed part of that Act from its commencement—vide section 4 (2), *ibid*—*See* also section 4 (3), *ibid*.

Gazette of the Madras district, the name of the purchaser and the date of purchase, together with a declaration of the lawful succession of such purchaser to all the rights and property of the former landholder in the said lands.

Delivery of possession.

22. If, notwithstanding such publication, any lawful purchaser of land be resisted and prevented from obtaining possession of his purchased land, any Court of competent jurisdiction, on application and production of certificate of sale provided for by section 20, shall cause the proper process to be issued for the purpose of putting such purchaser in possession in the same manner as if the purchased lands had been decreed to the purchaser by a decision of the Court.

Contracts and payments binding on purchaser.

23. All contracts entered into by the defaulter with his tenants, and all payments to him by them, shall be binding upon the purchaser as they would have been binding upon the defaulter.

Sale free of incumbrances.

24. All lands brought to sale on account of arrears of revenue shall be sold free of all incumbrances, except such as were *bona fide* created before the coming into operation of this Act ;

Disposal of surplus.

and if any balance shall remain after liquidating the arrears with interest, and the expenses of attachment and sale, and other costs due in respect of such arrears, it shall be paid over to the defaulter, unless such payment be prohibited by the injunction of a Court of competent jurisdiction.

Recovery of arrears due to defaulter on day of sale.

25. Arrears of rent which, on the day of sale, may be due to the defaulter from his under-tenants shall, in the event of the sale, be recoverable by him after the sale by any process, except distraint, which might have been used by him for that purpose before the said sale.

Sale of land.

26. It shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to sell the whole or any portion of the land of a defaulter in discharge of arrears of revenue :

Provided always that, so far as may be practicable, no larger section in the land shall be sold than may be sufficient to discharge the arrears, with interest, and expenses of attachment and sale.

Sale may be postponed on tender of security.

27. When a defaulter tenders security, it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to accept it and postpone the sale of the defaulter's property upon such conditions and until such time as he may appoint.

In the event of default being made in the performance of such conditions, the Collector or such officer may sell the property and proceed against the defaulter, or against his security, or both.

Process-servers to be paid batta.

28. Persons employed in serving notices or in other process under this Act shall be entitled to batta at such rates as may from time to time be fixed by the Board of Revenue with the sanction of [1][the State Government] and published in the official Gazette of the Madras district.

Interest and charges recoverable as arrears.

29. The batta mentioned in the foregoing section, as well as interest, and all costs and charges incurred under the authority of this Act, shall be recoverable from the defaulter and his sureties in the same manner as arrears of revenue.

Expense of countermanded sales to be sustained by the defaulter,

30. If property having been attached or distrained, be ordered to be put up for sale, and the sale be countermanded, the proprietor shall nevertheless be responsible for the expenses incurred in consequence of the attachment or distraint, in the same manner as if the sale had taken place ;

and recovered as an arrear.

and, in the event of such proprietor omitting to discharge the amount, it shall be recoverable by the process under which the original demand would have been recoverable.

Suits by persons aggrieved by proceedings.

31. Nothing contained in this Act shall be held to prevent parties deeming themselves aggrieved by any proceedings under this Act, except as hereinbefore provided, from applying to the Civil Courts for redress :

Limitation of suits.

Provided that Civil Courts shall not take cognizance of any suit instituted, by such parties for any such cause of action, unless such suit shall be instituted within six months from the time at which the cause of action arose.

Survival of suits against Collector.

32. No suit brought against the Collector by any person deeming himself aggrieved by anything done or purporting to be done under this Act shall abate by reason of the departure of the Collector from the district ; but the suit shall be continued against the successor of the Collector in all respects as though it had been instituted against himself.

Liability for predecessor's acts.

A suit may be brought against the Collector in his official capacity on account of anything done or purporting to have been done under this Act by his predecessor, subject to the limitation prescribed in the preceding section. Provided that the Collector shall not be personally liable for any official act of his predecessor.

Act read with Central Act XII of 1851.

33. This Act shall be read with, and taken as part of, Act XII of 1851.

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[1] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

MADRAS ACT No. III OF 1869.[1]

[THE MADRAS REVENUE SUMMONSES ACT, 1869.]

[*9th March 1869* ; *23rd April 1869*.]

An Act to empower Revenue-Officers, to summon persons to attend at their Kacháhris for the settlement of matters connected with Revenue-administration.

Preamble.

WHEREAS it is found that the revenue-administration of the country is retarded, because Revenue-officers, namely, Collectors, Sub-Collectors, Assistant Collectors, Deputy Collectors, Tahsildars, and Deputy Tahsildars, are not made competent, by express provision of law, to issue summonses for the attendance of persons, or the production of documents, in certain cases in which it is their duty to hold investigations ; It is hereby enacted as follows :—

Revenue-officers empowered to summon persons to appear or to produce documents.

1. Collectors, Sub-Collectors, Assistant Collectors, Deputy Collectors, Tahsildars and Deputy Tahsildars shall have power to summon all persons resident within the district, whose evidence may appear to them to be necessary for the investigation of any matter in which they are authorized to hold an inquiry, and also to require the production of any document relevant to the matter under inquiry, which may be in the possession or under the control of such person.

Terms of summons.

[2] **2.** Such summons shall be in writing, and authenticated by the signature and seal of the officer by whom it is issued.

It shall require the person summoned to appear before the said officer at a stated time and place, and shall specify whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes ; and any particular document, the production of which is required, shall be described in the summons with convenient certainty.

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[1] Short title, " The Madras Revenue Summonses Act, 1869 " was given by the Repealing and Amending Act, 1901 (Central XI of 1901).

This Act has been declared in force in the Rampa Country under s. 3 (*a*) of the Scheduled Districts Act, 1874 (Central XIV of 1874)—*see Gazette of India*, 1879, Pt. I, p. 630. It has also been declared by a notification under the same section to be in force in the muttas of Dutcharti and Guditoru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I. p. 553. The Act is in force in the other parts of the Godavari Agency also. The Act is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1909.

It has been extended, under s.5 of the same Act, to the taluks of Bhadrachalam and Rakapalli in the Govavari district—*see* Gazette, *ibid* ; to the Scheduled Districts in Ganjam and Vizagapatam—*see Gazette of India*, 1898, Pt. I, p. 872.

[2] Ss. 2 to 5 of this Act apply, *mutatis mutandis*, to summons under Mad. Act V of 1893—*see* s. 3 of that Act.

Service of summons.

[1] **3.** The summons shall be served personally on the person summoned, or, if he cannot be found, it may be left for him with some adult member of his family residing with him, or with the head of the village in which he lives.

Persons summoned to produce may send documents by third party.

[1] **4.** Any person may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced, instead of attending personally to produce the same.

When personal attendance of witnesses dispensed with.

[1] **5.** When the person whose evidence may be required is unable, from sickness or infirmity, to attend before the officer issuing the summons, or is a person whom by reason of rank or sex it may not be proper to summon, the officer issuing the summons may, of his own motion, or on the application of the party whose evidence is desired, dispense with the appearance of such person, and order him to be examined by a subordinate deputed by such officer for the purpose.

MADRAS ACT No. VIII OF 1869[2].

[THE MADRAS INAMS ACT, 1869.]

[*27th May 1868*; *8th December 1869*.]

An Act to prevent doubts as to the true intent and meaning of certain words used in the title-deeds of inams heretofore furnished to inam-holders by the Inam Commissioner of the Madras Presidency, and to declare the true intent and meaning of Madras Acts IV of 1862 and IV of 1866.

Preamble.

WHEREAS, under the rules sanctioned by the Local Government in the year 1859, and published in the *Fort St. George*

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[1] Sections 2 to 5 of this Act apply, *mutatis mutandis*, to summons under Madras Act V of 1893—see section 3 of that Act.

[2] Short title, "The Madras Inams Act, 1869" was given by the Repealing and Amending Act, 1901 (Central XI of 1901).

This Act has been declared, by notification under s. 3 (*a*) of the Scheduled Districts Act, 1874 (XIV of 1874), to be in force in the Scheduled Districts in Ganjam—*see Fort St. George Gazette*, 1899, Pt. I. p. 888. It has also been declared by a notification under the same section to be in force in the muttas of Dutcharti and Guditeru of theGodavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Act has been declared by a notification under section 3 (*b*) of the Scheduled Districts Act, 1874, to be not in force in the Vizagapatam Agency—*see ibid.*

The Act has been extended by a notification under section 5 of the Scheduled Districts Act to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see ibid.*

Gazette, dated the 4th October 1859, for the adjudication and settlement of inam-lands in the Madras Presidency, the Inam Commissioner of the said Presidency is required to furnish inam-holders with title-deeds in respect of their inams, prepared according to certain forms prescribed by the said Government; and whereas the terms of the title-deeds so prepared appear in many cases to convey a more extensive right than was intended to be given or than could be legally given; and whereas it is apprehended that the terms of the title-deeds may be so construed as to affect the rights and interests which other persons may have in lands from which the inams are derived or drawn, in cases where inam-holders do not possess the proprietary right in the soil, but only the right of receiving the rent or tax payable to Government in respect of the inam-lands as transferees of the Government, and it is therefore expedient to remove all doubts as to the true intent and meaning of the words used in the said title-deeds; and whereas the words "land" and "lands" are used in Madras Acts IV of 1862 and IV of 1866 in connexion with inams in a sense not applicable to inams, and it is expedient to explain the true intent and meaning of such words in the said Acts; It is enacted as follows :—

Effect of wording of inam title-deeds and of wording of Madras Acts IV of 1862 and IV of 1866.

1. Nothing contained in any title-deed heretofore issued to any inam-holder shall be deemed to define, limit, infringe or destroy the rights of any description of holders or occupiers of the lands from which any inam is derived or drawn or to affect the interests of any person other than the inam-holder named in the title-deed; and nothing contained in Madras Act IV of 1862, or in Madras Act IV of 1866, shall be deemed to confer on any inam-holder any right to land which he would not otherwise possess.

MADRAS ACT No. I OF 1873.[1]

[THE MADRAS WILD ELEPHANTS PRESERVATION ACT, 1873.][2]

[*21st April 1873* ; *15th May 1873*.]

An Act to prevent the indiscriminate destruction of wild elephants.

Preamble. WHEREAS it is expedient to make provision to prevent the indiscriminate destruction of wild elephants within the Presidency of Madras ; It is hereby enacted as follows :—

Local extent. 1. This Act extends to the territories for the time being subject to the Government of the Presidency of Fort St. George ;

Commencement. and it shall come into force on the first day of October 1873.

Destruction of wild elephants prohibited. 2. From and after the said day the destruction of wild elephants is prohibited, except as hereinafter provided.

Penalty for destroying female elephants. 3. [3][Whoever, not being authorized thereto by a licence granted under the provisions of section 3-A shoots at or intentionally destroys and whoever abets within the meaning of the Indian Penal Code, any person not authorized as aforesaid in shooting at, or destroying] any wild female elephant upon waste or forest land, whether such land be the property [4][of the Government] or otherwise, shall be liable to a penalty not exceeding five hundred rupees, and in default of payment to simple or rigorous imprisonment for a period not exceeding three months.

Central Act XLV of 1860

Penalty on second conviction. Any person convicted under this Act of an offence committed after his previous conviction under this Act shall be liable to a penalty not exceeding one thousand rupees, and, in default of payment, to simple or rigorous imprisonment for a period not exceeding six months.

[5][3-A. The District Collector, [6](

) may, subject to such rules as may

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[1] Short title, "The Madras Wild Elephants Preservation Act, 1873" was given by the Repealing and Amending Act, 1901 (Central XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 25th February 1873, p. 4, for Proceedings in Council, *see ibid*, 25th February 1873, p. 2, and *ibid*, dated 22nd April 1873, p. 5.

The Act has been extended by a notification under section 5 of the Scheduled Districts Act, 1874, to the Bhadrachalam and Nugur taluks of the Godavari Agency—*see Fort St. George Gazette*, 1930, Pt. I, p. 553.

The Act is in force in all the other Agency tracts also.

[2] Repealed as to Coorg by Regulation 1 of 1881.

[3] The words within square brackets were substituted by section 2 of the Madras Wild Elephants Preservation (Amendment) Act, 1933 (Madras Act XXIV of 1933).

[4] The words "of the Crown" were substituted for the words "of Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[5] Section 3-A was inserted by section 3 of the Madras Wild Elephants Preservation (Amendment) Act, 1933 (Madras Act XXIV of 1933).

[6] The words, "if specially authorized by the Board of Revenue," were omitted by section 2 of the Madras Wild Elephants Preservation Amendment Act, 1951 (Madras Act X of 1951).

Licence to shoot female elephants.

from time to time be made by the [1][State Government] on the application of any person, grant to such person by name a special licence to shoot or destroy wild female elephants upon waste or forest lands in a specified area situated within the district whether such lands be the property [2][of the Government] or otherwise subject to such conditions and restrictions [3]( ) as the District Collector may think fit, for a period not exceeding one year from the date of the grant of the licence.

Every such licence shall become void at the expiration of the said period, but may be renewed by such Collector for any period not exceeding one year :

Provided that every such licence shall become void upon the conviction under this Act of the person to whom such licence was granted.]

Penalty for destroying male elephant on Government land without licence.

4. Whoever, not being authorized thereto by a licence granted under the provisions of section 7, shoots at or intentionally destroys, [4][and whoever abets within the meaning of the Indian Penal Code, any person not authorized as aforesaid in shooting at or destroying] any wild male elephant upon waste or forest land, the property of [5][the Government] shall, upon a first or second conviction, be liable to the penalties and periods of imprisonment respectively provided for a first or second conviction in section 3 of this Act. Central Act XLV of 1860.

Saving clause as to destruction of male elephants on zamindari or private land.

5. Nothing in this Act shall be deemed to prevent any zamindar or other proprietor or occupier of land, or any person duly authorized in that behalf by any such zamindar, proprietor or occupier, from destroying wild male elephants upon the waste or forest-lands of such zamindar, proprietor or occupier.

Saving clause as to destruction of elephants on cultivated lands, etc.

6. Nothing in this Act shall be deemed to prevent any person from shooting at, or destroying, any wild male or female elephant found upon cultivated lands, or upon or in the immediate vicinity of any public road, or to prevent any person from shooting at, or destroying, any male or female elephant in defence of himself or any other person.

Licence to shoot male elephants.

7. The Collector or other officer in charge of a district may, subject to such rules as may from time to time be made by the [1][State Government], issue a licence to any person

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "of the Crown" were substituted for the words "of Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[3] The words "as the Board of Revenue may direction" were omitted by section 2 of the Madras wild Elephants Preservation (Amendment) Act, 1951 (Madras Act X of 1951.)

[4] These words were substituted by section 4 of the Madras Wild Elephants Preservation (Amendment) Act, 1933 (Madras Act XXIV of 1933).

[5] The words "the Crown" were substituted for the words "the Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

authorizing him by name to shoot wild male elephants upon waste or forest lands, the property of [1][the Government], in such district, for the period of one year from the date of the grant of such licence.

Every such licence shall become void at the expiration of the said period, but may be renewed by such Collector or other officer for a like period:

Provided that every such licence shall become void upon the conviction under this Act of the person to whom such licence was granted. Proviso.

8. The [2] [State Government] may make rules, for regulating the grant or renewal of licences under this Act, and the fees to be charged on such grant or renewal, and may from time to time alter or cancel such rules. Power to make rules for grant or renewal of licences.

9. Every prosecution under this Act shall be commenced within a period of six months from the date of the offence in respect of which it is instituted. Limitation of prosecution.

MADRAS ACT No. I OF 1876.[3]

[THE MADRAS LAND-REVENUE ASSESSMENT ACT, 1876.]

[*12th February 1876* ; *3rd March 1876*.]

An Act to make better provision for the separate assessment of alienated portions of permanently settled estates.

WHEREAS it is desirable to make better provision for the separate assessment to land-revenue of portions of Preamble.

[1] The words "the Crown" were substituted for the words "the Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] Short title, "The Madras Land-revenue Assessment Act, 1876" was given by the Repealing and Amending Act, 1901 (Central Adt XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 2nd March 1875, page. 12; for Report of the Select Committee, *see ibid*, dated 16th November 1875, page. 1; for Proceedings in Council, *see ibid*, dated 2nd March 1875, page 4, *ibid*, dated 22nd November 1875, page 1 and *ibid*, dated 8th February 1876, page 2.

This Act took effect from 1st September 1876.

It has been declared by notification under section 3 (*a*) of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to be in force in the Scheduled Districts in Ganjam and Visagapatam—*see Gazette of India*, 1898, Part I, page 869, and *Fort St. George Gazette*, 1898, Part I, page 666. It has also been declared by a notification under the same section to be in force in the Muttas of Dutcharti and Guditeru of the Godavari Agency—*see Fort St. George Gazette*, 1930, Part. I, page. 553. The Act is in force in the rest of the Agency also. The Act is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1909.

permanently-settled estates alienated by sale or otherwise; It is hereby enacted as follows :—

Application for registry and separate assessment.

1. The alienor or alienee of any portion of a permanently-settled estate, or the representative of any such alienor or alienee, may apply to the [1][Collector] of the district in which such portion is situate for its registration in the name of the alienee and for its separate assessment in respect of land-revenue.

Inquiry by Collector.

2. The [1] [Collector] shall thereupon hold an inquiry as to who is the present owner of the property in respect of which the application is made.

Procedure as to inquiry.

For the purposes of such inquiry the [1] [Collector] shall publish a notice in the [2] [District Gazette], in three successive issues, that the application has been made, and that, unless cause is shown to the contrary within sixty days from the date of notice, such separate assessment will be made.

He shall also cause notice of the inquiry to be given to any alienor or alienee who has not joined in the application.

In what case registry and separate assessment should be made.

If on such inquiry it appears that the alienation has taken place and that all the parties to such alienation concur in applying for the separate assessment of the portion alienated, and if objection is not taken by any person interested in the estate, or being taken is disallowed by the [1][Collector], the [1][Collector] shall proceed to register the alienated portion in the name of the alienee, and to apportion the assessment of such alienated portion in the manner provided in section 45 of Madras Act II of 1864.[3] [* * * * *]

Proportion of land revenue to be deducted.

3. Upon such assessment being declared there shall be deducted from the land-revenue payable in respect of such estate an amount equal to the sum assessed on the portion so separately assessed.

Assessed part not liable for arrears due by estate, nor estate for arrears due by part assessed.

4. Upon such assessment being made, the portion so assessed shall no longer be liable in respect of arrears of revenue due by the estate of which it formed a part; nor shall such estate be liable in respect of the portion so assessed.

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[1] For definition of "Collector", *see* section 2 of Madras Act II of 1914.

[2] These words were substituted by section 3 (1) of and the Second Schedule to the Madras Repealed and Amending Act, 1951 (Madras Act XIV of 1951) for the words "Official Gazette" as substituted for the words "local Gazette" by the Adaptation Order of 1937.

[3] The words and figures "subject to the sanction laid down in section 46 of that Act" were repealed by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914).

5. Any person aggrieved by the fact of the separate registration of such portion may sue in a Civil Court for a decree declaring that such separate registration ought not to be made. Persons aggrieved by registration may sue in Civil Court.

6. Any person aggrieved by the Collector's refusal to register may sue in a Civil Court for a decree declaring that such separate registration ought to be made. Persons aggrieved by refusal to register may sue in Civil Court.

7. Any person aggrieved by the apportionment of the assessment under section 2 of this Act may appeal to the Board of Revenue within ninety days from the date of the declaration of such assessment; and the order of the Board of Revenue shall be final. Persons aggrieved by assessment may appeal to Revenue Board.

8. [1][If no such appeal has been preferred, the Board of Revenue] may at any time, if it appears that there has been fraud or material error in the apportionment of such separate assessment, cause the same to be re-adjusted. Power to re-adjust assessment.

9. [*Regulation I of* 1819 *repealed.*] *Rep. by the Repealing and Amending Act,* 1901 (*Central XI of* 1901).

MADRAS ACT No. VII OF 1878.[2]

[THE MADRAS MUNICIPAL POLICE ACT, *1878.*]

[*16th April 1878*; *7th September* 1878.]

An Act to provide for the payment from municipal funds of a portionof the cost of the police force employed in the City of Madras and in all municipal towns within the Presidency of Fort St. George.

WHEREAS it is expedient that a portion of the cost of the Police employed in the City of Madras, and in every town brought under the operation of the Towns Improvement Act,[3] Preamble.

[1] These words were substituted for the words "The Governor in Council" by section 4 of the Madras Revenue (Miscellaneous Amendments) Act, 1936 (Madras Act VIII of 1936).

[2] Short title, "The Madras Municipal Police Act, 1878" was given by the Repealing and Amending Act, 1901 (Central XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette,* 1878, Supplement, 27th March, page 1; for Report of the Select Committee, *see ibid,* dated 9th April 1878, page 1; for Proceedings in Council, *seei bid,* dated 9th April 1878, page 68 and *ibid,* dated 24th April 1878, page 75.

[3] The Act was repealed by Madras Act IV of 1884—*see* now the Madras District Municipalities Act, 1920 (Madras Act V of 1920).

Mad. Act III of 1871.

1871 (Madras), shall be defrayed from municipal funds; It is hereby enacted as follows :—

Commencement of Act.

1. This Act shall come into force on the first day of April 1879.

2. [*Repeal of section 2 of Act V of* 1871.] *Rep. by the Repealing and Amending Act,* 1901 (*Central Act XI of* 1901).

Municipal contribution towards maintenance of Police in City of Madras.

3. The Municipal Commissioners for the City of Madras shall annually set apart, and pay to [1][the State Government] in equal monthly instalments, out of the funds raised under the Madras Municipal Act, 1867,[3] or any other corresponding law for the time being in force[3] such sum not exceeding fifty per centum of the total cost of the Policeforce, other than the Marine Police, employed by [1][the State Government] in the said City, as may be annually fixed by [1][the State Government].

Municipal contribution towards maintenance of Police in mufassal towns.

4. In every town in which the Towns Improvement Act,[4] 1871 (Madras), or any other corresponding law for the time being in force[5] is in operation, the Municipal Commissioners for such town shall annually set apart, and pay to [1][the State Government] in equal monthly instalments out of the funds raised under the said Act or law, such sum not exceeding seven y-five per centum of the total cost of the Police force employed in such town as may be annually fixed by [1][the State Government].

Sums payable under Act, when and to whom to be paid.

5. All sums payable under this Act shall be paid by the Municipal Commissioners for such city or town as aforesaid at such times and to such persons as [1][the State Government] may from time to time direct.

Commissioner of Police to furnish the Madras Municipality annually with statements of sums received, and expended and of estimated probable expenditure, on account of the City Police.

6. The Commissioner of Police for the City of Madras shall, on or before the first day of August in each year, furnish to the Municipal Commissioners for the City of Madras, a statement of all sums received and expended by him in the past official year in respect of the Police force, other than the Marine Police, employed in the said City, and a statement or estimate showing the probable expenditure to be incurred in the ensuing official year in respect of the said Police force.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The Act was repealed by Madras Act V of 1878—*see* now the Madras City Municipal Act, 1919 (Madras Act IV of 1919).

[3] *See* Madras Act IV of 1919.

[4] The Act was repealed by Madras Act IV of 1884—*see* now the Madras District Municipalities Act, 1920 (Madras Act V of 1920.

[5] *See* Madras Act V of 1920.

Every District Superintendent of Police shall, at such periods as the [1][State Government] may from time to time direct, furnish to the Municipal Commissioners for every town in his district in which the Towns Improvement Act,[2] 1871 (Madras), or any other corresponding law for the time being in force, is in operation, statements containing similar information to that mentioned in the preceding paragraph, in respect of the Police force employed in every such town. District Superintendents of Police to furnish similar statements to mufassal municipalities in respect of Police in towns.

MADRAS ACT No. VIII OF 1878.[3]

[THE MADRAS COFFEE-STEALING PREVENTION ACT, 1878.]

[*30h August 1878* ; *28th September 1878*.]

An Act to prevent Thefts of Coffee.

WHEREAS it is expedient to make special provision to prevent thefts of coffee, and to repress and punish the offence of receiving or disposing of stolen coffee in the neighbourhood of coffee plantations or estates ; It is enacted as follows :— Preamble

1. This Act may be called the Madras Coffee-stealing Prevention Act, 1878. Short title.

2. This Act shall take effect in such districts, divisions or parts of districts, or within such localities or limits within the Presidency of Fort St. George, and from such date as the [1][State Government] may from time to time direct by notification published in the official Gazette.[4] Commencement and local extent of Act.

The [1][State Government] may from time to time modify or cancel such direction by notification similarly published. Power to modify or annul notification.

[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] *See* now Madras Act V of 1920.

[3] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 28th January 1878, page 3 ; for Report of the Select Committee, *see ibid*, Supplement, dated 13th August 1878, page 3 ; for Proceedings in Council, *see ibid*, Supplement, dated 12th February 1878, page 27, *ibid*, Supplement, dated 13th August 1878, page 100, *ibid*, Supplement, dated 20th August 1878, page 101.

[4] For places to which the Act has been extended from time to time under this section, *see* the List of Local Rules and Orders.

Interpretation.

3. In this Act—

"Labourer". "labourer" means and includes all persons except resident managers temporarily or permanently employed on a coffee estate in any capacity, whether agricultural, menial or otherwise howsoever :

"Carrier". "carrier" means and includes all persons for the time being employed in the transport of coffee whether by porterage, pack-animals, boat, cart or otherwise, and whether as contractors, drivers or otherwise :

"Coffee estate". "coffee estate" means and includes any land on which coffee is growing :

"Coffee". "coffee" means and includes all coffee not roasted or otherwise prepared for immediate consumption.

Coffee not to be taken from labourer.

4. It shall not be lawful for any one to purchase, take in barter or exchange or receive coffee from any labourer employed on a coffee estate.

Coffee not to be taken from other than labourer, unless particulars entered in book.

5. It shall not be lawful for any one to purchase, take in barter or exchange, or receive coffee from any person other than a labourer employed on a coffee estate, unless the persons so purchasing, taking in barter or exchange, or receiving such coffee shall immediately thereupon enter or cause to be entered in a book to be kept by him for that purpose a true record of such transaction, specifying—

(*a*) the name, residence and occupation of the person from whom such coffee was so purchased, taken in barter or exchange, or received ;

(*b*) the date of the transaction ; and

(*c*) the quantity and description of the coffee so purchased, taken in barter or exchange, or received :

Section not to apply to coffee taken for *bona fide* personal consumption.

Provided that this section shall not apply to coffee purchased, taken in barter or exchange or received from any person other than a labourer employed on a coffee estate, and intended *bona fide* for consumption in the house or on the premises of the person purchasing, taking in barter or exchange, or receiving the same as aforesaid.

Person in charge of coffee estate to maintain a book of his transactions.

[1] [**5-A.** Every person in charge of a coffee estate, whether he be owner thereof or not, who sells, gives in barter or exchange, or delivers any coffee, shall immediately thereupon enter or cause to be entered in a book to be kept by him for that purpose a true record of such transaction specifying—

(*a*) the name, residence and occupation of the person to whom such coffee was so sold, given in barter or exchange, or delivered.

[1] This section was inserted by section 3 of the Madras Coffee-stealing Prevention (Amendment) Act, 1900 (Madras Act II of 1900).

(*b*) the date of the transaction ; and

(*c*) the quantity and description of the coffee so sold, given in barter or exchange, or delivered.]

Books to be produced on police officer's requisition.

6. All books required [1][to be kept] by [1][sections 5 and 5-A] [1]* * * * shall be produced upon the requisition of any police officer not below the rank of an officer in charge of a police station, generally or specially authorized by any Magistrate to require the production of such books.

Conditions under which coffee may be taken from a carrier.

7. It shall not be lawful for any one to purchase or take in barter or exchange coffee from any carrier, or for any carrier to sell or give in barter or exchange any coffee, unless the person so purchasing or taking in barter or exchange such coffee shall, besides making the entry required by section 5 of this Act, also enter or cause to be entered in the book mentioned in the said section 5 the marks (if any) on the bags or other packages in which such coffee may be contained, and unless the entries required by this section and by the said section 5 be also correctly signed by such carrier in his own name, and attested by a police officer or the headman of the village within which the transaction takes place ; for which attestation no fee shall be chargeable.

Penalty for breach of section 4, 5, 5-A, 6 or 7.

8. Any person committing any breach of the provisions contained in section 4, 5, [2][5-A], 6 or 7 of this Act shall be liable, on conviction by a Magistrate, to pay a fine not exceeding five hundred rupees.

Penalty in case of labourer being found in possession of green coffee for which he cannot account.

9. Any coolie, maistri or other labourer employed on a coffee-estate found with green gathered [3][parchment or cherry-dried] coffee in his possession, and failing to account satisfactorily for such possession, shall be liable, on conviction by a Magistrate, to pay a fine not exceeding five hundred rupees.

Coffee not to be carried without permission of owner or agent.

10. No person shall carry or remove coffee from any coffee estate, premises or place, or upon any road, highway or footway, without the express permission of the owner or of his authorized agent.

Permission to be in writing, etc.

Such permission shall be in writing, dated and signed by the said owner or his authorized agent, and shall contain the following particulars :—

(*a*) the quantity of the coffee to be carried or removed ;

(*b*) the number, description and marks of the packages in which coffee is secured ;

(*c*) the place or destination to which the coffee is to be carried or removed ; and

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[1] These words were inserted, the words " sections 5 and 5-A " were substituted for the words " section 5," and the words " to be kept by persons purchasing coffee " repealed by s. 4 of Mad. Act II of 1900.

[2] The figure and letter " 5-A " were inserted by s. 5, *ibid*.

[3] These words were inserted by s. 6, *ibid*.

(*d*) the names of the consignor and consignee.

Penalty for breach of this section.

Any person committing any breach of the provisions of this section shall, on conviction by a Magistrate, be liable to pay a fine not exceeding five hundred rupees.

Hours of gathering or removing coffee.

11. No coffee shall be gathered, moved, loaded or unloaded on any coffee-estate between sunset and sunrise.

Penalty for breach of above provision.

Any person committing a breach of this provision, or abetting (within the meaning of the Indian Penal Code)[1] such breach, shall, on conviction by a Magistrate, be liable to pay a fine not exceeding five hundred rupees : Central Act XLV of 1860

Section 10 and this section not to apply to ordinary operations of curing.

Provided that nothing in section 10 or in this section shall apply to the ordinary operations of curing the crop on the estate such as pulping or storing.

Procedure if gathering, etc., was done to commit theft.

12. If it shall appear that such gathering, moving, loading or unloading was for the purpose of committing a theft, the person or persons so engaged shall be liable to be charged with theft, or abetment of theft, and be proceeded against for such offence under the provisions of sections 378 and 379 or sections 107, 108 and 109 of the Indian Penal Code[2], as the case may be. Central Act XLV of 1860.

Substituted punishment for second offence under section 9.

13. It shall be at the discretion of the Magistrate, in the case of any persons, not being females, who shall be convicted of a second offence under section 9 of this Act, to substitute * * * [3] [corporal punishment under the provisions of Act No. VI of 1864[4] (*an Act to authorize the punishment of whipping in certain cases*), or of any other law for the time being in force in that behalf for * * *[5] the penalties provided by this Act :

Proviso.

Provided that such substituted * * *[6] punishment shall be awarded only in respect of the offence itself, and not as an alternative penalty for non-payment of fine.

Fines to be paid into public treasury.

14. All fines paid or levied under this Act shall be paid into the public treasury :

Magistrate may grant rewards to informers.

Provided that the Magistrate trying any case under this Act may [7][for reasons to be recorded in writing] grant the whole or any portion of any fine levied therein as rewards to persons furnishing such information as may have led to the conviction of offenders under this Act.

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[1] *See* ss. 107 and 108 of the Indian Penal Code.

[2] General Acts.

[3] The words " or add," were repealed by Mad. Act II of 1900, s. 7.

[4] *See* now the whipping Act, 1909 (Central Act IV of 1909.

[5] The words " or to " were repealed by Mad. Act II of 1900, s. 7.

[6] The words " or additional " were repealed by *ibid.*

[7] These words were inserted by Mad. Act II of 1900, s. 8.

Duties of a provision in charge of coffee-estate.

[1] **15.** It shall be the duty of every person in charge of a coffee-estate whether he be owner thereof or not, to keep such books and to furnish such returns in connection with the coffee-estate or the coffee grown thereon at such times and to such authorities as may be prescribed by the [2][State Government of Madras], and to afford to such officers as may be generally or specially designated in that behalf by the Collector all reasonable facilities for verifying the correctness of such books and returns, and for obtaining such other information as may be required for the preparation in public offices of such statistics as the [2][State Government of Madras] may prescribe.

Power to make rules.

[1] **16.** The [2][State Government of Madras] may after previous publication make rules—

(*a*) prescribing forms for the books, returns and statistics referred to in section 15 ;

(*b*) regulating the time at which and the authority to whom such returns are to be furnished ;

(*c*) regulating the inspection and examination of such books, returns and statistics ; and

(*d*) generally for carrying out the purposes of this Act ; and all such rules shall be published in the [3][Official Gazette] and shall thereupon have the force of law.

Penalty for failure to comply with the provisions of section 15.

[1] **17.** Any person failing without reasonable excuse to comply with the provisions of section 15 of this Act shall be liable on conviction by a Magistrate to pay a fine not exceeding one hundred rupees.

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[1] Sections 15, 16 and 17 were added by Mad. Act II of 1900, s. 9.

[2] The words " Provincial Government of Madras " were substituted for the words " Governor of Fort St. George in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[3] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

MADRAS ACT No. I OF 1879.[1]

[THE MADRAS CATTLE-DISEASE (AMENDMENT) ACT, 1879.]

[*6th February 1879*; *22nd March 1879.*]

An Act to amend Madras Act II of 1866 (the Cattle-disease Prevention Act).

Preamble.

WHEREAS it is expedient to amend Madras Act II of 1866 (*An Act for the prevention of the spread of disease among cattle in the Madras Presidency*), in order to give full effect to its provisions within the limits of the City of Madras as defined in Madras Act V of 1878[2], by conferring upon the President of the Municipal Commission for the City of Madras the powers given by the said Act to the Magistrate of the district; It is enacted as follows :—

"President, Municipal Commission, Madras," to be read after "the District Magistrate".

1. Sections 3, 7, 8, 10, 12, 14 and 15 of Madras Act II of 1866 shall be read as if they contained the following words after the words "the Magistrate of the district": "or, in the City of Madras, the President of the Municipal Commission."

Act to be read as part of Act II of 1866.

2. This Act shall be read with, and taken as part of, Act II of 1866.

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[1] Short title, "The Madras Cattle-disease (Amendment) Act, 1879" was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1879, Supplement, dated the 21st January, 1879, p. 1; for Proceedings in Council *see ibid* Supplement, dated the 4th February, 1879, p. 4.

The Act came into force on the 25th April 1879, by Notification, dated 26th April 1879—*see Fort St. George Gazette*, 1879, Pt. I, p. 325.

[2] Rep. by Mad. Act I of 1884—*see* now Mad. Act IV of 1919.

MADRAS ACT No. II OF 1879.[1]

[THE NILGIRIS GAME AND FISH PRESERVATION ACT, 1879.]

[*12th February 1879* ; *24th March 1819.*]

An Act to provide for the protection of Game and Acclimatised fish in the district of the Nilgiris in the Madras Presidency.

Preamble.

WHEREAS it is expedient to provide for the protection of wild animals and birds used for food and of acclimatised fish, and to prohibit the killing, capturing and selling game and acclimatised fish in the district known as the Nilgiris, as described in the Schedule hereto appended, under certain conditions ; It is hereby enacted as follows :—

Title and local extent.

1. This Act may be called the Nilgiris Game and Fish Preservation Act, 1879 ; and it shall come into operation in the district aforesaid, or such parts thereof, and from such dates as the [2][State Government] may from time to time declare by notification in the [3] [Official Gazette].

Interpretation-clause—"Game".

2. In this Act the word "game" shall include bison, sambhur, ibex, jungle-sheep, deer of all descriptions, hares, jungle-fowl, pea-fowl, partridge, quail, and spur-fowl, or such birds or animals as the [2][State Government] may deem fit to specify by notification from time to time in the [3] [Official Gazette].

Power to fix close season.

3. The [2][State Government] may, by notification in the [3] [Official Gazette], from time to time, fix a season or seasons of the year during which it shall not be lawful for any person to shoot at, kill, capture, pursue or sell, or attempt to kill, capture or sell game, as may be specified in such notification within the district aforesaid :

Proviso as to private lands.

Provided that nothing in this Act contained shall preclude proprietors or occupiers of land from adopting such measures on such land as may be necessary for the protection of crops or produce growing thereon.

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1878, Supplement, dated the 2nd April 1878, p. 2 ; for Report of the Select Committee, *see ibid*, Supplement, dated the 25th June 1878 ; and for Proceedings in Council, *see ibid*, Supplement, dated the 24th April 1878, p. 82, and *ibid*, dated the 25th June 1878, and *ibid*, dated the 4th February 1879, p. 3.

The Act has been supplemented by Act IV of 1897.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

Protection of animal, bird or fish not indigenous.

4. Whenever any animal, bird or fish useful for food, not indigenous to the district aforesaid, is introduced into it with the approval of the Government with a view to becoming acclimatised or being propagated therein, it shall be lawful for the [1] [State Government] from time to time, by notification in the [2] [Official Gazette], to prohibit altogether, or to regulate in such manner and for such period not exceeding three years as may be declared in such notification, the pursuit, killing or capture of such animal, bird or fish.

Power to prescribe rules for the regulation and control of fishing.

5. It shall be lawful for the [1] [State Government], by notification in the [2] [Official Gazette], from time to time, to make rules for the regulation and control of fishing in any stream or lake within the said district; and such rules may, with the view to protect acclimatised fish which may be believed to be there or may be hereafter introduced therein, prohibit or regulate the poisoning of the waters of any stream or lake, the throwing of any deleterious matter therein, the use of fixed engines for the capture of fish in any stream, and the use of nets of a mesh below a certain size to be defined in such rules for the capture of fish in such stream or lake.

Power of Government officer or police.

6. Any Government officer or servant or policeman, producing his certificate of office, or wearing the prescribed distinctive dress or badge of his department, may require any person whom he finds committing any offence against section 3, 4 or 5 of this Act to give his name and address, or, if there is reason to doubt the accuracy of the name and address so given, to accompany him to the nearest police-station.

Penalties for shooting, etc., during close season and for breach of fishing rules

7. Every person convicted before a Magistrate of any offence against section 3, 4 or 5 of this Act shall be liable for a first offence to a penalty not exceeding rupees fifty and to the forfeiture to Government, at the discretion of the Magistrate, of the game, birds or fishes taken, and of all guns, engines, implements, nets and dogs used in or for the purpose of aiding the commission of such offence, and in default of payment of fine, to simple imprisonment for a period not exceeding one month, and for every second and subsequent offence, to a penalty not exceeding rupees one hundred and the same liability to forfeiture, and in default of payment to simple imprisonment for a period not exceeding two months.

Procedure under this Act.

8. The provisions of the Code of Criminal Procedure [3] relating to the summoning and examination of persons accused and witnesses and to the levying of penalties shall be applied to proceedings under this Act.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[3] *See* now Central Act V of 1898.

9. All fees, fines and forfeitures realized under this Act shall be paid into the public treasury. Appropriation of fees, fines, etc.

But it shall be competent to the convicting Magistrate to award such portion of the fine or of the proceeds of the forfeiture as he may think fit, not exceeding one-half the amount of full fine authorized to be imposed by this Act in any case under this Act, to the person or persons on whose information the conviction is obtained. Award to informer.

SCHEDULE REFERRED TO IN THE PREAMBLE.

The Nilgiri district shall for the purpose of this Act be held to be bounded by—

The north bank of the Bhavani River from Attipadi in the Attipadi Valley to the junction of the Mayar River.

The west and south banks of the Mayar River from its junction with the Bhavani to the point in the Mudumullah District nearest to Gudalur.

A line carried thence to the head of the Pandy River (Ouchterlony Valley).

The east bank of the Pandy River to where it falls near the Karkur Pass into Malabar Payenghaut.

A line along the south crest of the Ouchterlony Valley and across the western slopes of the Nilgiri and Mukurti Peaks and Sisapara Ranges to Wallaghaut.

A line thence along the west crest of the Silent Valley (Malabar) Range.

N.B.—The district shall include the entire tract known as the Silent Valley.

A line from the south end of the abovenamed range to the Bhavani River at Attipadi in the valley of the same name.

MADRAS ACT No. I OF 1881.[1]

[THE MADRAS PORTS POLICE ACT, 1881.]

[*29th January 1881* ; *12th March 1881.*]

An Act to provide for the maintenance of a special Police-force in the Ports of the Presidency of Fort St. George.

Preamble. WHEREAS it is expedient to make special provision for the security of the traffic between the shore and shipping in the ports of the Presidency of Fort St. George and to make the said traffic contribute towards the cost thereof ; It is enacted as follows :—

Short title. **1.** This Act may be called the Madras Ports Police Act, 1881.

Scope of Act. It shall take effect in such port or ports in the Presidency of Fort St. George and from such date as the [2][State Government] may from time to time direct by notification in the [3] [Official Gazette].

Additional charge on the hire of boats carrying goods. **2.** To meet the expense of the Police-force, established under the provisions of Act XXIV of 1859 (*an Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George*) and Madras Act VIII of 1867 [4] (*an Act to incorporate the Police of the Town of Madras with the General Police of the Madras Presidency, etc.*), which may be necessary for the purpose of this Act, the [2] [State Government] may, from time to time, by notification in the [3][Official Gazette], fix such sum as may suffice at each port on an annual estimate to cover the cost of such special force to be charged and taken by the owner of every boat employed to convey goods to or from any ship or vessel in any port in the Presidency of Fort St. George in which this Act may take effect, in addition to the hire payable under Act IV of 1842 [5] (*for the better management of boats and catamarans in the Madras Roads and for the amendment of certain Harbour Regulations*) or under Act IX of 1846[5] (*an Act for authorizing the Government of Fort St. George to provide Regulations for the several*

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 6th July, 1880, p. 3 ; for Report of the Select Committee *see ibid*, dated 7th December 1880, p. 1 ; for Proceedings in Council, *see ibid.* dated 27th July 1880, p. 3 and, *ibid*, dated 25th January 1881, p. 2.

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[3] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

[4] *See* now the Madras City Police Act, 1888 (Mad. Act III of 1888).

[5] Rep. by the Madras Repealing and Amending Act, 1893 (Mad. Act I of 1893), itself repealed by Central Act XI of 1901.

ports and places of anchorage within the territories subject thereto) or under any Act that may be hereafter enacted for the like purpose.

No goods to be conveeyd unless boat be accompanied by a Police officer.

3. No goods of any description shall be conveyed in any boat to or from any ship or vessel in any port in which this Act may take effect unless an Officer of the Police-force is present on board such boat; and it shall be the duty of the Commissioner or Superintendent of Police to provide every such boat with an officer of the Police-force for such purpose.

Penalties for omission to carry Police officer.

4. The owner of every boat and the tindal and boatmen for the time being employed in any boat in which any goods shall with the connivance of such boat-owner, tindal or boatmen be conveyed to or from any ship or vessel in any port in which this Act may take effect without having an Officer of the Police-force on board of such boat, shall, on conviction before a magistrate, be liable as follows :—

every boat-owner to a fine not exceeding fifty rupees ;

every tindal to a fine not exceeding twenty rupees ;

every boatman to a fine not exceeding five rupees.

Penalties for obstruction or hindrance to Police officer.

5. Every boat-owner, tindal or boatman of any boat who shall hinder any such officer from proceeding on board such boat or shall obstruct him in the performance of his duty when in any such boat, shall, on conviction before a Magistrate, be liable as follows :—

every boat-owner to a fine not exceeding one hundred rupees ;

every tindal to a fine not exceeding thirty rupees or to corporal punishment not exceeding fifty lashes with a cat-o'-nine tails ;

every boatman to a fine not exceeding fifteen rupees or to corporal punishment not exceeding thirty lashes with a cat-o'-nine tails.

Owner to make weekly return of trips.

6. Every boat-owner shall on every Monday make or cause to be made—

to the Commissioner of Police, or

to the Superintendent of Police, or

to such other person as the said Commissioner or Superintendent of Police shall appoint to receive the same, or

to the Port-officer of any port in which this Act may take effect, if such Port-officer shall be appointed to such duty by the [1][State Government],

a return in writing, signed by such boat-owner or his agent of the number of trips made by each of his boats on each day during the preceding week.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Penalty for neglecting to make return and for making false return.

7. Every boat-owner who shall neglect to make the return required by section 6 shall, on conviction before a Magistrate, be liable for a first offence to a fine not exceeding fifty rupees, and for a second or any subsequent offence to a fine not exceeding one hundred rupees ;

and every boat-owner who shall knowingly make a false return shall be liable to a fine not exceeding three hundred rupees and a forfeiture of all licences which he may hold under the provisions of Act IV of 1842 [1] or IX of 1846.[1]

Boat-owner to pay to the Commissioner or Superintendent of Police the sums charged under this Act.

8. Every boat-owner shall on every Monday pay or cause to be paid—

to the said Commissioner of Police, or

to the Superintendent of Police, or

to such other person as the said Commissioner or Superintendent of Police shall appoint to receive the same, or

to the Port-officer of any port in which this Act may take effect, if such Port-officer shall be appointed to such duty by the [2] [State Government],

the regulated sum as provided under section 2 for every trip made by any boat belonging to him employed in conveying goods, according to the weekly return made by him as hereinbefore directed ;

Procedure on default.

and, in default of such payment, one or more of the boats of any boat-owner making such default may be seized and sold by virtue of a warrant under the hand and seal of a Magistrate until the amount so due by such boat-owner and the expenses of sale shall be realized ; and such amount when realized shall be forthwith paid to the said Commissioner or Superintendent of Police or other officer appointed as aforesaid. Any surplus arising from such sale shall, provided application be made within three months from the date of such sale, be paid to such boat-owner.

Moneys received under this Act to be paid into the public treasury.

9. All moneys paid to or received by the said Commissioner or Superintendent of Police, or other officer as aforesaid under this Act, shall be paid by such officer at least once a month into the public treasury.

Act not to apply to boats conveying only mails.

10. This Act shall not apply to any boat which shall convey mails exclusively to or from any ship or vessel in any port in which this Act may take effect.

Powers of Police-officers under the Act.

11. From and after the passing of this Act, it shall be lawful for all Police-officers appointed under Act XXIV of 1859

[1] Rep. by the Madras Repealing and Amending Act, 1893 (Mad. Act I of 1893).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

or Madras Act VIII of 1867 to exercise within the limits of any port in which this Act may take effect all powers given to them by the said Acts, respectively.

Central Act VI of 1877.

12. The provisions of the Code of Criminal Procedure[1] and the Presidency Magistrates Act[2] shall apply to all fines and punishments awarded under this Act.

Code of Criminal Procedure and Presidency Magistrates Act to apply to punishments.

13. The [3][State Government] may from time to time, by notification in the [4][Official Gazette], apply the provisions of this Acts to boats conveying passengers to or from any vessel in all or any ports in which this Act shall take effect under section 1.

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14. It shall be competent to the [5][State Government of Madras] to withdraw from the operation of this Act, by notification in the official Gazette, any port, or ports in which this Act may take effect.

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15. [*Repeal of enactment.*] *Rep. by the Repealing and Amending Act*, 1901 (*Central Act XI of* 1901).

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[1] *See* now Central Act V of 1898.

[2] Act IV of 1877, with the exception of s. 57, which relates to the fees payable for summons or warrants issued by Presidency Magistrates, was repealed by Act X of 1882.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substitiuted for "Provincial" by the Adaptation Order of 1950.

[4] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[5] The words "Provincial Government of Madras" were substituted for the words "Governor in Council of Fort St. George" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

THE MADRAS FOREST ACT, 1882.

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(*Chapter I.—Preliminary.*)

MADRAS ACT No. V OF 1882.[1]

[THE MADRAS FOREST ACT, 1882.][2]

[*17th September 1882*; *11th October 1882.*]

An Act to make provision for the Protection and Management of Forests in the Presidency of Madras.

Preamble. WHEREAS it is expedient to make provision for the protection and management of forests in the Presidency of Madras, It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title. **1.** This Act may be called the Madras Forest Act, 1882.

Local extent. It extends to all territories [3][. . . .] subject to the Government of Fort St. George, except the scheduled districts :

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Extraordinary, dated 6th July 1882, p. 17 ; for Report of the Select Committee, *see ibid*, dated 19th August 1882, p. 1 ; for Proceedings in Council, *see ibid*, Supplement, dated 11th July 1882, p. 6, *ibid*, dated 12th September 1882, p. 9.

This Act was extended in 1894 by the Governor-General in Council to the Rampa country and to the Dutcharti and Guditeru muttas in the Golgonda hills, Godavari district ; and by Madras Notification No. 287, published at p. 725 of the *Fort St. George Gazette*, dated 19th June 1894, the said country and muttas were exempted from the operation of the following portions of the Act, Chapters II, III except section 26, IV, VI and VIII.

Also extended with the previous sanction of the Governor-General in Council to—

(*a*) The Pondakhol and the Minnajodi muttas and the Adigudi mutta in the scheduled districts of Ganjam known as the Surada Maliahs and Chinnakimidi Maliahs respectively (G.Os. No. 1294, Judicial, dated 18th June 1885, and No. 932, Judicial, dated 25th June 1901). Also to other scheduled districts of Ganjam (G.O. No. 2005, Judicial, dated 3rd December 1906, Notification No. 544, p. 1206, Pt. I of the *Fort St. George Gazette*, dated 4th December 1906).

(*b*) Kottam, Ram and Konda muttas of the scheduled taluk of Palkonda in the Vizagapatam district (Revenue Notification No. 41, dated 14th January 1890, p. 78, Pt. I of the *Fort St. George Gazette*, dated 28th January 1890).

(*c*) The Agency tracts of the Vizagapatam district other than the muttas in the Palkonda taluk to which the Act was made applicable, referred to in (*b*) above (Revenue Notification No. 268, dated 17th June 1891).

(*d*) The scheduled taluks of Bhadrachalam and Rakapalli in the Godavari district, *Gazette of India*, 1885, Pt. I, p. 660.

The Act is in force in the Nugur taluk of the East Godavari district in virtue of section 2 (1) of Regulation I of 1909.

[2] *See* also the Madras Forest (Amendment) Act, 1919 (Madras Act VII of 1919).

[3] The words " for the time being " were omitted by the Adaptation Order of 1937.

Provided that the [1] [Government] may, by notification in the [2] [Official Gazette], exempt any place from the operation of the whole or any portion of this Act but not so as to affect anything done, or any offence committed, or any fine or penalty incurred, or any proceedings commenced in such place before such exemption, and may in like manner vary or cancel such notification ;

and it shall come into force on such day as the [1] [Government] may by notification in the [2][Official Gazette] direct. Commencement.

2. In this Act, and in all rules made hereunder, unless there is something repugnant in the subject or context,— Interpretation-clause.

" Government " means the [3] [State Government] : "Government."

" Collector " means the chief executive Revenue-officer of a district : "Collector."

" Forest-officer " means any person appointed by name or as holding an office by or under the orders of the Government to be a Conservator, Deputy Conservator, Assistant Conservator, [4][Extra Assistant Conservator], Forest-ranger, Forester, Forest-guard ; "Forest-officer."

or to discharge any function of a Forest-officer under this Act or any rule made hereunder :

" District-Forest-officer " means the chief Forest-officer of a district or of a portion of a district, if in independent charge of such portion : "District-Forest-officer."

" tree " includes stumps, bamboos and brushwood : "Tree."

" timber " includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not : "Timber."

" forest-produce " includes the following things when found in, or brought from, a forest (that is to say) :— "Forest-produce."

minerals (including limestone and laterite), surface-soil, trees, timber, plants, grass, peat, canes, creepers, reeds, fibres, leaves, moss, flowers, fruits, seeds, roots, galls, spices, juice, catechu, bark, caoutchouc, gum, wood-oil, resin, varnish, lac, charcoal, honey and wax, skins, tusks, bones and horns :

" forest-offence " means an offence punishable under this Act or any rule made hereunder : "Forest-offence."

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adatation Order of 1937 and the word " Provincial " was omitted by the Adaptation (Amendment) Order of 1950.

[2] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

[3] The words " Provincial Government " were substituted for the words " Governor of Fort St. George in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] These words were substituted for the words " Sub-Assistant Conservator " by section 2 of the Madras Forest (Amendment) Act, 1936 (Madras Act VII of 1936).

"Cattle." "cattle" includes elephants, camels, buffaloes, horses, mares, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids :

"River." "river" includes streams, canals, creeks and other channels, natural or artificial :

"Land at the disposal of Government." "land at the disposal of Government" includes all unoccupied land, whether assessed or unassessed ; but does not include land, the property of land-holders as defined by section 1 of Act VIII of 1865,[1] Madras (namely), all persons holding under a sanad-i-milkiyat-i-istimrar, all other zamindars, shrotriyamdars, jagirdars, inamdars and all persons farming lands from the above persons or farming the land-revenue under Government : also all holders of land under raiyatwar settlements, or in any way subject to the payment of land-revenue direct to Government, and all other registered holders of land in proprietary right :

"Magistrate." "Magistrate" means a Magistrate of the first or second class, and includes a Magistrate of the third class when he is specially empowered by Government to try forest-offences :

"Imprisonment." "imprisonment" means imprisonment of either description as defined in the Indian Penal Code. Central Act XLV of 1860.

CHAPTER II.

RESERVED FORESTS.

Power to reserved forest. **3.** The [2][Government] may constitute any land at the disposal of Government a reserved forest in the manner hereinafter provided.

Notification by the Government. **4.** Whenever it is proposed to constitute any land a reserved forest, the [2][Government] shall publish a notification in the [3][Official Gazette] and in the official Gazette of the district—

(*a*) specifying, as nearly as possible, the situation and limits of such land ;

(*b*) declaring that it is proposed to constitute such land a reserved forest ;

(*c*) appointing an officer (hereinafter called the Forest-settlement-officer) to inquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of, any person in or over any land comprised within such limits, or to any forest produce of such land, and to deal with the same as provided in this Chapter.

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[1] *See* now Madras Act I of 1908.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "Provincial" was omitted by the Adaptation (Amendment) Order of 1950.

[3] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

The officer appointed under clause (*c*) of this section shall ordinarily be a person other than a Forest-officer; but a Forest-officer may be appointed by the [1][Government] to attend on bahalf of Government at the inquiry prescribed by this Chapter.

Suits barred.

5. Except as hereinafter provided, no Civil Court shall, between the dates of the publication of the notification under section 4 and of the notification to be issued under section 16, entertain any suit to establish any right in or over any land, or to the forest-produce of any land, included in the notification published under section 4.

Proclamation by Forest-settlement-officer.

6. When a notification has been issued under section 4, the Forest-settlement-officer shall publish in the official Gazette of the district, and at the headquarters of each taluk in which any portion of the land included in such notification is situate, and in every town and village in the neighbourhood of such land, a proclamation—

(*a*) specifying, as nearly as possible, the situation and limits of the land proposed to be included within the reserved forest;

(*b*) setting forth the substance of the provisions of section 7;

(*c*) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(*d*) fixing a period not less than three months from the date of publishing such proclamation in the official Gazette of the district and requiring every person claiming any right referred to in section 4 either to present to such officer, within such period, a written notice specifying, or to appear before him within such period and state, the nature of such right and in either case to produce all documents in support thereof.

The Forest-settlement-officer shall also serve a notice to the same effect on every known or reputed owner or occupier of any land included in or adjoining the land proposed to be constituted a reserved forest, or on his recognized agent or manager. Such notice may be sent by registered post to persons residing beyond the limits of the district in which such land is situate.

Bar of accrual of forest-rights.

7. During the interval between the publication of such proclamation and the date fixed by the notification under section 16,

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "Provincial" was omitted by the Adaptation (Amendment) Order of 1950.

no right shall be acquired in or over the land included in such proclamation, except under a grant or contract in writing made or entered into by, or on behalf of, the Government, or by, or on behalf of, some person in whom such right, or power to create the same, was vested when the proclamation was published, or by succession from such person ;

Prohibition of clearings, etc.

and no fresh clearings for cultivation or for any other purpose shall be made on such land.

No patta shall, without the previous sanction of the [1][Board of Revenue], be granted on behalf of Government in such land, and every patta granted without such sanction shall be null and void.

Nothing in this section shall be deemed to prohibit any act done with the permission in writing of the Forest-settlement-officer.

Inquiry by Forest-settlement-officer.

8. The Forest-settlement-officer shall take down in writing all statements made under section 6, and shall inquire into all claims made under that section, recording the evidence in the manner prescribed by the Code of Civil Procedure[2] in appealable cases.

The Forest-settlement-officer shall at the same time consider and record any objection which the Forest-officer (if any) appointed under section 4 may make to any such claim.

Powers of Forest-settlement-officer.

9. For the purpose of such inquiry the Forest-settlement-officer may exercise the following powers (that is to say) :—

(*a*) power to enter, by himself or any officer authorized by him for the purpose, upon any land, and to survey, demarcate and make a map of the same ; and

(*b*) the powers conferred on a Civil Court by the Code of Civil Procedure[2] for compelling the attendance of witnesses and the production of documents.

Claims to rights of occupancy and ownership.

10. In the case of a claim to a right in or over any land other than the following rights :—

(*a*) a right of way ;

(*b*) a right to a water-course, or to use of water ;

(*c*) a right of pasture ; or

(*d*) a right to forest-produce ;

the Forest-settlement-officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same wholly or in part.

Admitted claims.

(i) If such claim is admitted wholly or in part, the Forest-settlement-officer may (1) come to an agreement with the claimant for the surrender of the right ; or (2) exclude the

[1] These words were substituted for the words "Governor in Council" by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914).

[2] *See* now Act V of 1908.

land from the limits of the proposed forests ; or (3) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1870. [1]

Central Act X of 1870.

For the purpose of so acquiring such land—

(i) the Forest-settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1870 [1] ;

Central Act X of 1870.

(ii) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act ;

(iii) the provisions of the preceding sections of that Act shall be deemed to have been complied with ; and

(iv) the Forest-settlement-officer with the consent of the claimant, or the Court (as defined in the said Act) with the consent of the claimant and of the Collector of the district, may award compensation by the grant of rights in or over land, or by the payment of money, or both.

Rejected claims—Appeals.

(ii) If such claim is rejected wholly or in part, the claimant may, within thirty days from the date of the order, prefer an appeal to the District Court in respect of such rejection only : Provided that the [2] [Government] may, on just and reasonable cause for the same being shown, extend the period for such appeal within such further period as may seem proper, and an order or endorsement under the signature of one of the Secretaries to Government shall be sufficient authority for the said Court to entertain such appeal beyond the limit above specified. If the Court decides that the claim or such part thereof as has been rejected should be admitted, the Forest-settlement-officer shall proceed to deal with it in like manner as if it had been in the first instance admitted by himself.

(iii) When a claim has been admitted in the first instance wholly or in part, a like appeal may be preferred on behalf of Government by the Forest-officer appointed under section 4, or other person generally or specially empowered by the Government in this behalf.

Claims to rights of way, watercourse, pasture, and to forest-produce.

11. In the case of a claim to rights of the kind specified in clauses (*a*), (*b*), (*c*) and (*d*) of section 10, the Forest-settlement-officer shall pass an order specifying the particulars of such claim as far as may be necessary to define the nature, incidents and extent of the rights claimed, and admitting or rejecting such claim wholly or in part.

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[1] *See* now the Land Acquisition Act, 1894 (Central Act I of 1894).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "Provincial" was omitted by the Adaptation (Amendment) Order of 1950.

When a claim to any such right is admitted, if the right is for the beneficial enjoyment of any land or buildings, he shall record the designation, position and area of such land, and the designation and position of such buildings.

Where the right is a right to forest-produce, he shall also record whether the forest-produce obtained by the exercise of such right may be sold or bartered.

Provision for rights of pasture or to forest-produce admitted.

12. When the Forest-settlement-officer has admitted wholly or in part, and recorded under section 11, a claim to a right of pasture or to forest-produce, he shall, as far as possible, provide for the exercise of such right—

(*a*) by altering the limits of the proposed reserved forest so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimant ;

(*b*) by recording an order continuing to the claimant a right of pasture or to forest-produce (as the case may be), subject to such rules as may be prescribed by the [1] [Government].

The order passed under clause (*b*) shall record, as far as practicable, the number and description of the cattle which the claimant is from time to time entitled to graze, the local limits within which, and the seasons during which, such pasture is permitted ; or

the quantity of timber or other forest-produce which the claimant is authorized to take or receive, the local limits within which, the season during which, and the mode in which, the taking of such produce is permitted ; and

such other particulars as may be required in order to define the extent of the right which is continued, and the mode in which it may be exercised.

Commutation of such rights.

13. Whenever any right of pasture or to forest-produce admitted under section 11 is not provided for in one of the ways prescribed in section 12, the Forest-settlement-officer shall, subject to such rules as the Government may prescribe in this behalf, commute such right by paying a sum of money in lieu thereof, or, with the consent of the claimant, by the grant of rights in or over land or in such other manner as such officer thinks fit.

Appeal from order passed under sections 11, 12 and 13.

14. The claimant, or the Forest-officer appointed under section 4, or any other person generally or specially empowered by the Government in this behalf, may, within sixty days

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "Provincial" was omitted by the Adaptation (Amendment) Order of 1950.

from the date of any order passed by the Forest-settlement-officer under sections 11, 12 and 13, present an appeal from such order—

to a Forest Court constituted as hereinafter provided, or, where no such Court is constituted, to such officer of the Revenue Department of not less than twelve years' standing as the [1][Government] may, from time to time, by notification in the [2][Official Gazette], appoint, by name or as holding an office, to hear appeals from such orders.

In disposing of such appeals the Revenue-officer appointed as aforesaid shall be guided by the provisions of sections 39 and 40 of this Act.

Appeal under section 14.

15. Every appeal under section 14 shall be made by petition in writing, and may be delivered to the Forest-settlement-officer, who shall forward it without delay to the appellate authority.

Notification declaring forest reserved.

16. When the following events have occurred, namely :—

(*a*) the period fixed under section 6 for preferring claims has elapsed, and all claims (if any) made within such period have been disposed of by the Forest-setttlement-officer ; and

(*b*) if such claims have been made, the period fixed by sections 10 and 14 for appealing from the orders passed on such claims has elapsed, and all appeals (if any) presented within such period have been disposed of by the appellate authority ; and

(*c*) all proceedings prescribed by section 10 have been taken, and all lands (if any) to be included in the proposed forest, which the Forest-settlement-officer has, under section 10, elected to acquire under the Land Acquisition Act, 1870,[3] have become vested in the Government under section 16 of that Act ;

Central Act X of 1870.

the [1][Government] may publish a notification[4] in the [2][Official Gazette], specifying the limits of the forest which it is intended to reserve, and declaring the same to be reserved from a date to be fixed by such notification.

The Forest-settlement-officer shall, before the date so fixed, published such notification in the manner prescribed for the proclamation under section 6.

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[1] The words "Povincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "Provincial" was omitted by the Adaptation (Amendment) Order of 1950.

[2] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[3] *See* now the Land Acquisition Act, 1894 (Central Act I of 1894).

[4] *See* the List of Local Rules and Orders.

From the date so fixed, such forest shall be deemed to be a reserved forest.

Extinction of rights not claimed.

17. Rights in respect of which no claim has been preferred under section 6 shall thereupon be extinguished, unless, before the publication of such notification, the person claiming them has satisfied the Forest-settlement-officer that he had sufficient cause for not preferring such claim within the period fixed under section 6; in which case the Forest-settlement-officer shall proceed to dispose of the claim in the manner hereinbefore provided.

Power of the Government to redefine the limits of reserved forests in certain cases.

[1] [**17-A.** (1) Where the description of the limits of any reserved forest notified under section 16 is defective or is not clear in reference to existing facts, the [2][Government] may, by notification in the [3][Official Gazette], declare their intention to redefine the limits of such reserved forest so as to remove the defect or to make the description clear in reference to existing facts. Such notification shall specify as nearly as possible the corrections which it is proposed to effect to the limits of the reserved forest.

(2) On the issue of a notification under sub-section (1), the District-forest-officer shall publish in the Official Gazette of the district concerned and in such other manner as may be prescribed by rules made in that behalf a notice—

(*a*) specifying the corrections proposed by the notification under sub-section (1); and

(*b*) stating that any objections which may be made in person or in writing to the District-forest-officer, within a period of thirty days from the date of publication of the notice, will be considered by him.

(3) After the expiry of the period referred to in clause (*b*) of sub-section (2) and after considering the objections, if any, received by him, the District-forest-officer shall submit to the [2][Government] the record of the proceedings held by him together with a report thereon.

(4) The [2][Government] may, after considering the report of the District-forest-officer, by notification in the [3][Official Gazette] redefine the limits of the reserved forest, as proposed by the notification under sub-section (1), with such modifications as they think fit or without any modifications.

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[1] This section was inserted by section 3 of the Madras Forest (Amendment) Act, 1936 (Madras Act VII of 1936).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "Provincial" was omitted by the Adaptation (Amendment) Order of 1950.

[3] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

(5) Save as provided in this section, it shall not be necessary to follow the procedure laid down in sections 4 to 16 before issuing a notification under sub-section (4).]

No right acquired over reserved forest except as here provided.

18. No right of any description shall be acquired in or over a reserved forest, except under a grant or contract in writing made by or on behalf of the Government, or by or on behalf of some person in whom such right, or the power to create such right, was vested when the notification under section 16 was published or by succession from such person :

Provided that no patta shall without the previous sanction of the [1] [Board of Revenue] be granted on behalf of Government for any land included within a reserved forest, and every patta granted without such sanction shall be null and void.

Rights continued under section 12 not to be alienated without sanction.

19. Notwithstanding anything herein contained, no right continued under section 12 shall be alienated by way of grant, sale, lease, mortgage or otherwise without the sanction of the Government : Provided that, when any such right is continued for the beneficial enjoyment of any land or buildings, it may be sold or otherwise alienated with such land or buildings without such sanction. Any alienation of such right in contravention of this section shall be null and void.

No forest-produce obtained in exercise of any right continued under section 12 shall be sold or bartered except to the extent defined by the order recorded under sections 11 and 12.

Any person selling or bartering any forest-produce in contravention of this section shall be punished with fine which may extend to two hundred rupees.

Power to stop ways and water-courses in reserved forest.

20. The District-forest-officer may, from time to time, with the previous sanction of the Government, stop any public or private way or water-course in a reserved forest : Provided that a reasonably convenient substitute for the way or water-course so stopped already exists, or has been provided or constructed in lieu thereof.

Penalties for trespass or damage in reserved forests, and acts prohibited in such forests.

21. Any person who—

(*a*) makes any fresh clearing prohibited by section 7 ; or

(*b*) sets fire to a reserved forest, or kindles, or leaves burning, any fire in such manner as to endanger the same ;

or who, in a reserved forest,—

(*c*) kindles, keeps or carries any fire except at such season and in such manner as the District-forest-officer may from time to time notify ;

[1] These words were substituted for the words "Governor in Council" by the Madras Decentralization Act, 1914 (Mad. Act VIII of 1914).

(*d*) trespasses, or pastures cattle, or permits cattle to trespass ;

(*e*) fells, girdles, marks, lops, taps, uproots or burns any tree, or strips off the bark or leaves from, or otherwise damages, the same ;

(*f*) quarries stone, burns lime or charcoal, or collects, subject to any manufacturing process, or removes any forest-produce ;

(*g*) clears, cultivates or breaks up any land for cultivation or any other purpose ; or

(*h*) in contravention of any rules made by the [1] [Government] hunts, shoots, fishes, poisons water or sets traps or snares ;

(*i*) damages, alters or removes any wall, ditch, embankment, fence, hedge or railing ;

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

Acts exempted from prohibition contained in this section.

Nothing in this section shall be deemed to prohibit—

(*a*) any act done in accordance with any rule made by the Government or with the permission in writing of the District-forest-officer, or of an officer authorized by him to grant such permission ; or

(*b*) the exercise of any right continued under section 12 or created by grant of contract in the manner described in section 18 :

Provided that this section shall not be held to interfere with such working of the forest as may be ordered by the District-forest-officer.

Suspension of rights in reserved forests.

22. Whenever fire is caused wilfully or negligently in a reserved forest, the Government may (notwithstanding that a penalty has been inflicted under section 21) direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest-produce shall be suspended for such period as it thinks fit.

Persons bound to assist Forest-officer and Police-officer.

23. Every person who exercises any right in a reserved forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest ; and

every person who is employed by any such person in such forest ; and

[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " Provincial " was omitted by the Adaptation (Amendment) Order of 1950.

every village-officer or person in any village contiguous to such forest who is employed by the Government ;

shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police-station-house-officer any information he may possess respecting the occurrence of a fire in or near such forest or the commission of, or intention to commit, any forest offence ; and shall assist any Forest-officer or Police-officer demanding his aid—

(*a*) in extinguishing any fire occurring in such forest ;

(*b*) in preventing any fire which may occur in the vicinity of such forest from spreading to such forest ;

(*c*) in preventing the commission in such forest of any forest-offence ; and,

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

Power to declare forest no longer reserved.

24. The Government may [1] [* * *] by notification [2] in the [3][Official Gazette] direct that, from a date to be fixed by such notification, any forest or any portion thereof reserved under this Act shall cease to be reserved.

From the date so fixed such forest or portion shall cease to be reserved ; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

Forests reserved previous to the passing of this Act.

25. The Government may, by notification [4] in the [3][Official Gazette], declare any forest which has been reserved by order of the Government previous to the day on which this Act comes into force to be a reserved forest under this Act :

Provided that if the rights of the Government or of private persons to or over any land or forest-produce in such forest have not been inquired into, settled and recorded in a manner which the Government thinks sufficient, the same shall be inquired into, settled and recorded in the manner provided by this Act for reserved forests, before the date on which the notification declaring the forest to be reserved takes effect.

All questions decided, orders issued and records prepared in connection with the reservation of such forest shall be deemed to have been decided, issued and prepared hereunder, and the provisions of this Act relating to reserved forests shall apply to such forest,

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[1] The words " subject to the control of the Governor General in Council " were omitted by the Adaptation Order of 1937.

[2] Several notifications under this power have been issued, but they are so numerous and liable to such frequent change that it is unnecessary to note them here.

[3] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

[4] Notifications under this section are too numerous and subject to so much alteration as to make reference here to them unnecessary.

(Chapter III.—Protection of land at the disposal of Government not included in Reserved Forests.)

CHAPTER III.

PROTECTION OF LAND AT THE DISPOSAL OF GOVERNMENT NOT INCLUDED IN RESERVED FORESTS.

Power to make rules.

26. Subject to all rights now legally vested in individuals and communities, the [1][Government] may for any district or portion of a district make rules[2] to regulate the use of the pasturage or of the natural produce of land at the disposal of Government and not included in a reserved forest. Such rules may, with respect to such land,—

(*a*) regulate or prohibit the clearing of breaking up of land for cultivation or other purposes ;

(*b*) regulate or prohibit the kindling of fires, and prescribe the precautions to be taken to prevent the spreading of fires ;

(*c*) regulate or prohibit the cutting, sawing, conversion and removal of trees and timber, and the collection and removal of natural produce ;

(*d*) regulate or prohibit the quarrying of stone, the boiling of catechu, or the burning of lime or charcoal ;

(*e*) regulate or prohibit the cutting of grass and pasturing of cattle, and regulate the payments (if any) to be made for such cutting or pasturing ;

[3](*f*) regulate or prohibit hunting, shooting, fishing, poisoning water and setting traps or snares ;

(*g*) regulate the sale or free grant of timber or other natural produce ; and

(*h*) prescribe the fees, royalties or other payments for such timber or other natural produce, and the manner in which such fees, royalties or other payments shall be levied.

Penalties for acts in contravention of rules.

The [1][Government] may by such rules prescribe, as penalties for the infringement thereof, imprisonment for a term which may extend to one month, or fine which may extend to two hundred rupees, or both :

Provided that the [1][Government] may exempt any person or class of persons from the operation of all or any of such rules.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "Provincial" was omitted by the Adaptation (Amendment) Order of 1950.

[2] For rules, *see* the List of Local Rules and Orders.

[3] For rules under clause (*f*) *see ibid.*

(Chapter III.—Protection of land at the disposal of Government not included in Reserved Forests. Chapter IV.—Of the control over forests and lands not at the disposal of Government or in which Government has a limited interest.)

Power to close land against pasture.

27. Whenever fire is caused wilfully or negligently in any land to which all or any of the rules made under section 26 have been extended, the Government may, notwithstanding that a penalty has been inflicted under that section, direct that such land be closed against pasture for such period as it thinks fit :

Provided that an area sufficient in extent and in a locality reasonably convenient is left open for the use of persons having rights of pasture in such land.

Penalties.

28. Whoever pastures cattle or permits cattle to trespass in land closed under section 27 shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

CHAPTER IV.

OF THE CONTROL OVER FORESTS AND LANDS NOT AT THE DISPOSAL OF GOVERNMENT OR IN WHICH GOVERNMENT HAS A LIMITED INTEREST.

On certain lands, the breaking up or clearing for cultivation, etc., may be regulated or prohibited.

29. The [1] [Government] may from time to time, by notification in the [2] [Official Gazette] and in the official Gazettes of the districts affected thereby, regulate or prohibit in any forest or waste-land not at the disposal of Government—

(*a*) the breaking up or clearing of land for cultivation ;

(*b*) the pasturing of cattle ;

(*c*) the firing or clearing of the vegetation ;

when such regulation or prohibition appears to be necessary for any of the following purposes :—

first, for protection against storms, winds, rolling stones, floods and avalanches ;

second, for the preservation of the soil on the ridges and slopes, and in the valleys, of hilly tracts, the prevention of land slips and of the formation of ravines and torrents and the protection of land against erosion, or the deposit thereon of sand, stones or gravel ;

third, for the maintenance of a water-supply in springs, rivers and tanks ;

fourth, for the protection of roads, bridges, railways and other lines of communication ;

[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " Provincial " was omitted by the Adaptation (Amendment) Order of 1950.

[2] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

(Chapter IV.—Of the control over forests and lands not at the disposal of Government or in which Government has a limited interest.)

fifth, for the preservation of the public health ;
and may alter or cancel such notification.

The Government may, for any such purpose, construct at their own expense, in or upon any such forest or land, such works as they think fit :

Provided that no such notification shall be made or work begun until after the issue of a notice to the owner of such forest or land calling upon him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, and until his objections (if any) and any evidence he may produce in support of the same have been heard by an officer duly appointed in that behalf, and have been considered by the Government.

In case of refusal by owner, Government may take such lands on lease or acquire them.

30. Whenever the owner of such forest or land may decline to comply with the regulations or directions contained in the said notification, it shall be incumbent upon the Government, if they resolve to assume control of the said forest or land, to take the said forest or land, or so much of it as they may see fit, on lease from the owner for such term as they may deem it necessary to retain the same under control, and the owner shall be bound either to conclude such lease with the Government or to require that such forest or land shall be acquired for public purposes, and in the latter event the Government shall acquire such forest or land accordingly. If such lease is agreed upon, the amount of annual rent to be reserved, and all other questions arising between the owner or persons claiming to be owners and the Government, shall, in case of dispute, be determined in accordance, so far as may be, with the provisions of the Land Acquisition Act, 1870.[1]

Central Act X of 1870.

Acquisition of forest or land under the Land Acquisition Act.

31. In any case under this Chapter in which the Government consider that, in lieu of taking the forest or land under its control, the same should be acquired for public purposes, the Government may proceed to acquire it in the manner prescribed by the Land Acquisition Act, 1870.[1]

Central Act X of 1870.

Protection of forests at request of owners.

32. The owner of any land or, if there be more than one owner thereof, the owners of shares therein, whether divided or not, amounting in the aggregate to at least two-thirds thereof, may, with a view to the formation or conservation of forests thereupon represent in writing to the Collector their desire—

(*a*) that such land be managed on their behalf by the District Forest Officer, as a reserved forest, on such terms as may be agreed upon ; or

[1] *See* now the Land Acquisition Act, 1894 (Central Act I of 1894).

(Chapter IV.—Of the control over forests and lands not at the disposal of Government or in which Government has a limited interest.)

(*b*) that such land be managed subject to the control of the Collector, by a person appointed, by themselves and approved by the Collector ; or

(*c*) that all or any of the provisions of this Act or rules made thereunder be applied to such land.

The Government may in any such case, by notification in the [1][Official Gazette], apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

Any such notification may be altered or cancelled by a like notification.

Management of forests, the joint property of Government and other persons.

33. If the Government and any person or persons are jointly interested in any forest or waste-land, or in the whole or any part of the produce thereof, the Government may either—

(*a*) undertake the management of such forest, waste-land or produce, accounting to such person for his interest in the same ; or

(*b*) issue such regulations for the management of the forest, waste-land or produce by the persons so jointly interested as it deems necessary for the management thereof and the interests of all parties therein.

When the Government undertakes, under clause (*a*) of this section, the management of any forest, waste-land or produce, it may, by notification in the [1][Official Gazette] and in the official Gazette of the district, declare that any of the provisions contained in Chapters II and III of this Act shall apply to such forest, waste-land or produce, and thereupon such provisions shall apply accordingly.

Persons employed to carry out the Act to be deemed Forest-officers.

34. All persons employed under sections 30, 32 and 33 to carry out the provisions of this Act shall be deemed to be Forest-officers within the meaning of this Act.

[2][The [3](Government) shall also have power to appoint any person to discharge any function of a Forest-officer under any of the provisions of this Act which have been extended to any land or to any forest or waste-land or produce thereof by a notification under section 32 or section 33 or under any rule made in pursuance of any provision so extended.]

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[1] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[2] This paragraph was added by section 4 of the Madras Forest (Amendment) Act, 1936 (Madras Act VII of 1936).

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "Provincial" was omitted by the Adaptation (Amendment) Order of 1950.

CHAPTER V.

CONTROL OF TIMBER IN TRANSIT.

Power to make rules to regulate transit of timber.

35. The [1][Government] may make rules[2] to regulate the transit of all timber or of certain classes of timber within local limits as may appear to be necessary. Such rules may (among other matters)—

(*a*) prescribe the routes by which alone timber may be imported into and exported from the Presidency of Madras ;

(*b*) prohibit the import and export or moving within defined local limits of timber without a pass from the land-holder from whose lands it was brought, or from an officer duly authorized to issue the same or otherwise than in accordance with the conditions of such pass ;

(*c*) prescribe the form of such passes and provide for their issue, production and return ;

(*d*) provide for the stoppage, reporting, examination and marking of timber in transit within defined local limits or at stations established as hereinafter provided ;

(*e*) establish, or authorize the Collector to establish stations to which such timber shall be taken by those in charge of it for examination or marking; and the conditions under which such timber shall be brought to, stored at, and removed from such station ;

(*f*) provide for the management and control of such stations, and for regulating the appointment and duties of persons employed thereat ;

(*g*) authorize the transport of timber, the property of Government, across any land, and provide for the payment of compensation for any damage done by the transport of such timber ;

(*h*) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest-produce and the throwing of grass, brushwood, branches and leaves into any such river, or any act which may cause such river to be closed or obstructed ;

(*i*) provide for the prevention and removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person, or by the sale of any timber, causing such obstruction ;

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "Provincial" was omitted by the Adaptation (Amendment) Order of 1950.

[2] For rules under this section and section 36, *see* the List of Local Rules and Orders.

(Chapter V.—Control of Timber in Transit.
Chapter VI.—The Forest Court.)

(*j*) provide for the protection of bridges, locks or other public works, by regulating the floating of timber, and the storing of timber on river banks, and by authorizing the seizure of timber floated or stored in contravention of such rules or by which any damage to such works may have been caused, and the detention and disposal of such timber until compensation has been made for the damage done ;

(*k*) regulate the use of property-marks for timber and the registration of such marks ; declare the circumstances in which the registration of any property-marks may be refused or cancelled ; prescribe the time for which such registration shall hold good ; limit the number of such marks that may be registered by any one person ; and provide for the levy of fees for such registration.

Power of Central Government as to movements of timber across frontiers.

[1] [**35-A.** Notwithstanding anything in section 35, the Central Government may make rules to prescribe the route by which alone timber may be imported and exported across any customs frontier as defined by the Central Government and any rules made under section 35 shall have effect subject to the rules made under this section.]

Penalties for breach of rules made under sections 35 and 35-A.

36. The [2] [Central or, as the case may be, State Government] may, by such rules,[3] prescribe as penalties for the infringement thereof imprisonment for a term which may extend to one month, or fine which may extend to two hundred rupees, or both.

In cases where the offence is committed after sunset and before sunrise, or after making preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Magistrate may inflict double the penalty prescribed for such offence.

CHAPTER VI.

The Forest Court.

Appointment and constitution of the Forest Court.

37. Where no revenue-officer has been appointed to hear appeals under section 14, the [4] [Government] shall, from time to time, as occasion may arise, appoint a Forest Court to

[1] This section was inserted by the Adaptation Order of 1937.

[2] The words " Central or, as the case may be , Provincial Government " were substituted for the word " Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[3] For rules under this section and section 36, *see* the List of Local Rules and Orders.

[4] The words " Provincial Government " were substituted for the words "Governor in Council " by the Adaptation Order of 1937 and the word " Provincial " was omitted by the Adaptation (Amendment) Order of 1950.

hear such appeals. The Court shall consist of three members, of whom—

one shall be the Judge of the Court of any district in which any portion of the land, the rights in or over which are in dispute, is situated, or the officer presiding in the principal Civil Court of original jurisdiction of such district,

another shall be the Collector of any such district, or an officer of the Revenue department of not less than twelve years' standing,

and the third member shall be a person specially selected by the [1][Government], not holding an office of profit in the service of the Government.

The Judge appointed to be the President.

38. The Judge appointed a member as aforesaid shall be the President of the said Court, and shall make all such orders in the case as may be necessary prior to the hearing of the appeal.

The official members of the Court may be appointed by name or as holding an office.

Hearing of appeals.

39. For the hearing of appeals, the Forest Court shall fix a day and a convenient place in the neighbourhood of the land regarding which, or regarding rights over which, a dispute exists, and shall give notice thereof to the parties.

All cases before the Forest Court shall be heard and disposed of, so far as may be, in accordance with the provisions of the [2] Code of Civil Procedure :

Provided that if, on the hearing of any such case, any question of law or of usage having the force of law, or the construction of a document affecting the merits of the case, shall arise on which the Court shall entertain reasonable doubts, the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the case, and submit it, with its own opinion, for the opinion of the High Court.

And it shall be the duty of the Forest Court to make such reference to the High Court if the questions involve any principle of general importance or affect the rights of a class.

Court to pass order which shall be final.

40. At the conclusion of the inquiry, and after receipt of the order of the High Court (which shall be binding upon the Forest Court) upon the reference (if any) prescribed by the preceding section, the Forest Court shall proceed to pass such order in the case as it may consider just and proper ; and the order passed by the said Court or by the majority of the members of the said Court shall be final.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "Provincial" was omitted by the Adaptation (Amendment) Order of 1950.

[2] *See* now Central Act V of 1908.

(Chapter VII.—Penalties and Procedure.)

CHAPTER VII.

PENALTIES AND PROCEDURE.

Seizure of property liable to confiscation.

41. When there is reason to believe that a forest offence has been committed in respect of any timber or forest produce, such timber or produce, together with all tools, ropes, chains, boats, [1] [vehicles] and cattle used in committing any such offence, may be seized by any Forest-officer or Police-officer.

Report to Magistrate.

Every officer seizing any property under this section shall place on such property, or the receptacle (if any) in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made :

Provided that, when the timber or forest-produce with respect to which such offence is believed to have been committed is the property of [2] [the Central or State Government] and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Procedure thereupon.

42. Upon the receipt of any such report the Magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the property according to law.

Timber, forest-produce, tools, etc., when liable to confiscation.

43. When any person is convicted of a forest-offence, all timber or forest-produce in respect of which such offence has been committed, and all tools, ropes, chains, boats, [1] [vehicles] and cattle used in committing such offence, shall be liable, by order of the convicting Magistrate, to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

Disposal, on conclusion of trial for forest-offence, of produce in respect of which it was committed.

44. When the trial of any forest-offence is concluded, any timber or forest-produce in respect of which such offence has been committed shall, if it is the property of [2] [the Central or State Government] or has been confiscated, be taken possession of by or under the authority of the District-Forest-Officer ; and in any other case may be disposed of in such manner as the Court may order.

Procedure when offender is not known or cannot be found.

45. When the offender is not known or cannot be found, the Magistrate, if he is of opinion that an offence has been committed, may, on application in this behalf, order the

[1] This word was substituted for the word " carts " by section 5 of the Madras Forest (Amendment) Act, 1936 (Madras Act VII of 1936).

[2] The words " the Crown " were substituted for the word " Government " by the Adaptation Order of 1937 and the words " Central or State Government " were substituted for " Crown " by the Adaptation (Amendment) Order of 1950.

property in respect of which the offence has been committed to be confiscated and taken possession of by or under the authority of the District-Forest-Officer, or to be made over to any person whom the Magistrate considers to be entitled to the same :

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce in support of his claim.

The Magistrate shall cause a notice of any application under this section to be served upon any person whom he has reason to believe is interested in the property seized, or shall publish such notice in any way which he thinks fit.

Procedure in regard to perishable property seized under section 41.

[1] [46. (1) Notwithstanding anything hereinbefore contained—

(*a*) the Magistrate may direct the sale of any property seized under section 41 which is subject to speedy and natural decay ; and

(*b*) if, in the opinion of the officer seizing such property, it is not possible to obtain the orders of the Magistrate under clause (*a*) in time, such officer may sell the property himself, remit the sale-proceeds into the nearest Government treasury, and make a report of such seizure, sale and remittance to the Magistrate and thereupon the Magistrate shall take such measures as may be necessary for the trial of the accused.

(2) The Magistrate may deal with the proceeds of the sale of any property held under clause (*a*) or clause (*b*) of sub-section (1) in the same manner as he might have dealt with the property if it had not been sold.]

Appeal from orders under section 43, 44 or 45.

47. Any person claiming to be interested in property seized under section 41 may, within one month from the date of any order passed under section 43, 44 or 45, present an appeal therefrom which may be disposed of in the manner provided by section 419, Code of Criminal Procedure. [2]

Property when to vest in the State.

48. When an order for the confiscation of any property has been passed under section 43 or 45, and the period limited by section 47 for presenting an appeal from such order has elapsed, and no such appeal has been presented, or when on such an appeal being presented the Appellate Court confirms such order in respect of the whole or a portion of such property

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[1] This section was substituted for the original s. 46 by s. 6 of the Madras Forest (Amendment) Act, 1936 (Madras Act VII of 1936).

[2] *See* now Central Act V of 1898, s. 520.

or portion, as the case may be, shall vest in the [1][State] free from all incumbrances.

Saving of power to release property seized.

49. Nothing hereinbefore contained shall be deemed to prevent the District-Forest-Officer from directing at any time the immediate release of any property seized under section 41 and the withdrawal of any charge made in respect of such property.

Penalty for counterfeiting or defacing marks on trees and timber, and for altering boundary-marks.

50. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code—

(*a*) knowingly counterfeits upon any timber or standing tree a mark used by Forest-officers to indicate that such timber or tree is the property of the [2][Central or State Government] or of some person, or that it may lawfully be cut or removed by some person ; or

(*b*) unlawfully affixes to any timber or standing tree a mark used by Forest-officers ; or

(*c*) alters, defaces or obliterates any such mark placed on any timber or standing tree by or under the authority of a Forest-officer ; or

(*d*) alters, moves, destroys or defaces any boundary-mark of any forest or any land to which any provisions of this Act apply ;

shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Power to arrest without warrant.

51. Any Forest-officer or Police-officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any forest-offence punishable with imprisonment for one month or upwards if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe he will abscond.

[3][Any person arrested under this section shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate ; and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.]

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[1] This word was substituted by the Adaptation (Amendment) Order of 1950 for the words " Crown for the purposes of the Province " as substituted for the word " Government " by the Adaptation Order of 1937.

[2] The word " Crown " was substituted for the word " Government " by the Adaptation Order of 1937 and the words " Central or State Government " were substituted for " Crown " by the Adaptation (Amendment) Order of 1950.

[3] This paragraph was substituted for the original paragraph by the Adaptation (Amendment) Order of 1950.

(*Chapter VII.—Penalties and Procedure. Chapter VIII.—Cattle-trespass.*)

Punishment for wrongful seizure or arrest.

52. Any Forest-officer or Police-officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act, or who vexatiously and unnecessarily arrests any person, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Power to prevent commission of offence.

53. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence.

Operation of other laws not barred.

54. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes a forest-offence, or from being liable under such other law to any higher punishment or penalty than that provided by this Act or the rules made thereunder : Provided that no person shall be punished twice for the same offence.

Power to compound offences.

55. Any Forest-officer specially empowered in this behalf may accept, from any person reasonably suspected of having committed any forest-offence other than an offence under section 50 or section 52, a sum of money by way of compensation for the offence which may have been committed, and, where any property has been seized as liable to confiscation, may release the same on payment of the value thereof as estimated by such officer.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken against such person or property.

Presumption that timber or forest-produce belongs to the Central or State Government.

56. When, in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest-produce is the property of the [1] [Central or State Government], such produce shall be presumed to be the property of the [1] [Central or State Government] until the contrary is proved.

CHAPTER VIII.

CATTLE-TRESPASS.

Cattle-trespass Act, 1871, to apply.

57. Cattle-trespassing in a reserved forest or on lands on which the grazing of cattle has been prohibited by rules made

[1] The word " Crown " was substituted for the word " Government " by the Adaptation Order of 1937 and the words " Central or State Government " were substituted for " Crown " by the Adaptation (Amendment) Order of 1950.

under section 26, or which has been closed under section 27, shall be deemed to be cattle doing damage to a public plantation within the meaning of the eleventh section of the Cattle-trespass Act, 1871, and may be seized and impounded as such by any Forest-officer or Police-officer.

Central Act I of 1871.

58. The [1][Government] may, by [2] notification in the [3][Official Gazette], direct that, in lieu of the fines fixed by the twelfth section of the Act last aforesaid, there shall be levied, in all or any of the areas to which this Act applies, for each head of cattle impounded under section 57 of this Act, such fines as [4][they think] fit, but not exceeding the following (that is to say) :—

Power to alter fines fixed by that Act.

	RS.	A.	P.
For each elephant	10	0	0
For each buffallo or camel	2	0	0
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow, calf or heifer ..	1	0	0
For each ass, pig, ram, ewe, sheep, lamb, goat or kid	0	8	0

CHAPTER IX.

FOREST-OFFICERS.

59. The [1][Government] may invest any Forest-officer by name, or as holding an office, with the following powers (that is to say) :—

Government may invest Forest-officers with certain powers.

(*a*) the powers of a settlement-officer under the Madras Boundaries Act, No. XXVIII of 1860 [5];

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents ;

(*c*) power to hold inquiries into forest-offences, and in the course of such inquiries to receive and record evidence, and to issue search-warrants which may be executed in the manner provided by the Code of Criminal Procedure [6];

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " Provincial " was omitted by the Adaptation (Amendment) Order of 1950.

[2] For notifications under this section, *see* the List of Local Rules and Orders.

[3] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

[4] These words were substituted for the words " he thinks " by *ibid.*

[5] The Act was repealed by Madras Act IV of 1897—*See* now the Madras Survey and Boundaries Act, 1923 (Madras Act VIII of 1923).

[6] *See* now Central Act V of 1898.

(*d*) power to accept compensation for forest-offences under section 55 and may withdraw any powers so conferred.

Any evidence recorded under clause (*c*) of this section shall be admissible in any subsequent trial before a Magistrate of the alleged offender: Provided that it has been taken in the presence of the accused person, and recorded in the manner provided by section 333, section 334 or section 335 of the Code of Criminal Procedure. [1]

Forest-officers deemed public servants.

60. All Forest-officers shall be deemed to be public servants within the meaning of the Indian Penal Code. Central Act XLV of 1860.

Indemnity for acts done in good faith.

61. No suit or criminal prosecution shall lie against any public servant for anything done or omitted in good faith under this Act.

[2] [**62.** * * * *]

CHAPTER X.

MISCELLANEOUS.

Additional powers to make rules.

63. The [3] [Government] may make rules [4] consistent with this Act—

(*a*) to declare by what Forest-officer or class of Forest-officers the powers or duties conferred or imposed by or under this Act on a Forest-officer shall be exercised or performed;

(*b*) to regulate the procedure of Forest-settlement-officers;

(*c*) to regulate the rewards to be paid to officers and informers from the proceeds of fines and confiscations under this Act, or from the public treasury;

(*d*) for the preservation, reproduction and disposal of trees and timber belonging to [5] [the Central or State Government], but grown on lands belonging to or in the occupation of private persons; and

(*e*) generally to carry out the provisions of this Act.

Rules when to have force of law.

64. All rules made by the [3] [Government] under this Act shall be published in the [6] [Official Gazette] and in the official

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[1] *See* now Central Act V of 1898, ss. 355, 356 and 357.

[2] This section was omitted by the Adaptation Order of 1937.

[3] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " Provincial " was omitted by the Adaptation (Amendment) Order of 1950.

[4] For rules under this section, *see* the List of Local Rules and Orders.

[5] The words " the Crown " were substituted for the word " Government " by the Adaptation Order of 1937 and the words " Central or State Government " were substituted for " Crown " by the Adaptation (Amendment) Order of 1950.

[6] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

Gazette of the districts affected thereby, and shall thereupon have the force of law. Such rules may be cancelled or varied by like notification.

All powers conferred by this Act on the Government may be exercised from time to time as occasion requires. Powers of Government exercisable from time to time.

65. It shall be lawful for the [1][Government] to delegate any of the powers conferred by sections 19, 20, 22, 27, 58 and 62 to the Board of Revenue, or to such other controlling Revenue-authority as the Government may from time to time appoint. Government may delegate powers.

66. All money, other than fines, payable to the Government under this Act, or any rules made thereunder, or on account of timber or forest produce or of expenses incurred in the execution of this Act in respect of timber or forest produce [2][or under any contract relating to timber or forest produce, including any sum recoverable thereunder for the breach thereof or in consequence of its cancellation or under the terms of a notice relating to the sale of timber or forest produce by auction or by invitation of tenders, issued by or under the authority of a District-Forest-Officer] and all compensation awarded to Government under this Act, may, if not paid when due, be recovered, under the law for the time being in force, as if it were an arrear of land revenue. Recovery of money due to Government.

67. When any such money is payable for, or in respect of any forest produce, the amount thereof shall be deemed to be a first charge on such produce; and, if such amount be not paid when due, such produce may be taken possession of by or under the authority of the District-Forest-Officer, and may be retained until such amount has been paid, or such Forest-officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount. Lien on forest-produce for such money. Power to sell such produce.

The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to Government.

68. Whenever it appears to the [1][Government] that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1870, section 4. [3] Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act.

Central Act X of 1870.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "Provincial" was omitted by the Adaptation (Amendment) Order of 1950.

[2] These words were inserted by section 2 of the Madras Forest (Amendment) Act, 1933 (Madras Act I of 1934).

[3] *See* now the Land Acquisition Act, 1894 (Central Act I of 1894), s. 6.

MADRAS ACT No. VI OF 1884.[1]

[THE MADRAS RIVERS CONSERVANCY ACT, 1884.]

[*31st March 1884* ; *28th August 1884.*]

An Act to provide for the Conservancy of Rivers in the Madras Presidency.

Preamble. WHEREAS it is expedient to make provision for the conservancy of rivers in the Presidency of Madras ; It is hereby enacted as follows :—

Short title. **1.** This Act may be cited as the Madras Rivers Conservancy Act, 1884.

Notification as to the conservancy of rivers as provided by this Act. **2.** The [2][State Government] may from time to time declare, by notification in the [3][Official Gazette] and in the Gazette of every district in which any part of the river is situated, that the conservancy of any specified river requires to be provided for in manner prescribed by this Act.

Power to direct survey of rivers. **3.** The [2][State Government] may at the same time direct that a survey be made of such river for the purpose of determining the limits within which this Act is to be applied, and that proper charts and registers be prepared setting forth the channel and all boundaries and land-marks and all other matters necessary for the purpose of ascertaining such limits.

Powers of surveying officers to enter upon and survey lands. **4.** All persons authorized to make a survey under section 3 shall have the like powers to enter upon land and to do all acts necessary for the survey as are given in sections 4 and 5 of the Land Acquisition Act, 1870[4], and subject to the provisos therein contained. Central Act X of 1870.

Duties of surveyor. **5.** It shall be the duty of the surveyor appointed to make a survey of any river to note upon the charts thereof all cultivation existing or ordinarily carried on, and all groynes, buildings, plantations, constructions or obstructions within the surveyed limits of the said river and to prepare a register to be styled the survey-register, containing the above particulars. The surveyor shall also mark upon the charts the ordinary channel as it exists at the date of the survey so far as it can be ascertained.

Survey-register.

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 5th July 1881, p. 4 ; for Report of the Select Committee, *see ibid*, dated 4th December 1883, p. 1 ; for Proceedings in Council, *see ibid*, dated 13th September 1881, p. 9 ; *ibid*, dated 3rd July 1883, p. 26 ; and *ibid*, 25th March 1884, p. 1.

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[3] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

[4] *See* now the Land Acquisition Act, 1894 (Central Act I of 1894).

Power to appoint Conservators of Rivers, and indicate their jurisdictions.

6. For the purpose of carrying out this Act in respect of any river, the [1][State Government] may appoint as many officers as may be deemed necessary, to be styled Conservators of Rivers, and may from time to time define, by order to be notified in the Gazettes of the districts in which any part of such river is situated, the limits of their several jurisdictions.

[2] * * * *

When notification declaring Act applicable to rivers may be published.

7. The charts prepared as is provided in section 3, shall, when completed, be exhibited for public information at the kachahris of all districts in which any part of the river so surveyed is situated, for a period of not less than ninety days. Any person or persons who may desire to raise objections to the boundaries or land-marks set forth in such charts shall be at liberty, during such period, to forward a statement in writing setting forth his or their objections to the Collector of the district in which the boundaries objected to are situated. At the expiry of such period, the Collector shall forward the said charts, with such statement of objections (if any) and his remarks thereon, to the [1][State Government] who shall then take the same into consideration, and may order such alteration in the said charts, or pass such other order thereon as to [3][them] may seem fit, previous to final approval of the said charts. On such final approval, the [1][State Government] may, by notification in the [4][Official Gazette] and in the Gazette of every district in which any part of the river is situated, declare that the provisions of this Act shall apply to the said river within the boundaries and limits prescribed in the said charts.

River-bed defined.

The land within the limits so defined and approved by the [1][State Government] shall be deemed to be the river-bed, and the limits shall, when necessary, be defined by boundary-stones or other suitable marks to be set up.

Custody of survey-register.

8. When the survey-register affecting any portion of a river is completed, it shall be handed over with the charts to the Conservator of Rivers within whose jurisdiction the said portion is situated and shall form part of the records of his office.

The Conservator shall thereupon furnish to the Collectors of the districts in which any part of such river is situated certified copies of the survey-register and charts.

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] The words " Such officers shall be liable to removal by order of the Governor in Council " were omitted by the Adaptation Order of 1937.

[3] This word was substituted for the word " him " by *ibid.*

[4] These words were substituted for the words " *Fort St. George Gazette* " by *ibid.*

Charts of rivers where to be deposited for public inspection.

9. Copies of all charts and registers prepared as provided in section 5, as finally approved, shall be deposited in the office of the Collector of the district in which any part of the river so defined is situated, and shall be open to the inspection of the public at all reasonable times.

Power to alter limits of rivers.

10. The [1][State Government] may from time to time, by notification in the [2][Official Gazette] and in the Gazette of every district in which any part of the river is situated, alter, extend or restrict the limits of any such river-bed, and the altered limits shall be marked in the charts and defined in manner prescribed in section 7 :

Provided that no such alteration shall be made until full particulars thereof shall have been publicly exhibited and any objections made thereto disposed of by the [1][State Government] as provided for in the said section.

Prohibition of new cultivation on land in bed of notified rivers.

[3][**11.** After such surveys have been completed and approved and the notification as provided by this Act made by the [4][State] Government, land within the limits of a river-bed as defined in section 7 which has not been cultivated for two years previous to the date on which this Act is applied to the river, shall not, without the previous permission of the Conservator of Rivers in writing, be cultivated, and it shall not be lawful without such permission to cultivate within the limits of a river-bed any new formation of land.

Penalty.

Whoever commences or carries on, or attempts to carry on, any cultivation in contravention of this section and of a notice from the Conservator to desist shall be punishable with fine which may extend to five hundred rupees and in default of payment of fine to simple imprisonment not exceeding three months.

Explanation.—'Cultivation' shall, for the purposes of this Act, include the growing of plants which require the ground to be ploughed once a year or at shorter intervals and which are ordinarily removed at the end of the season but shall exclude 'plantation' as explained in section 13.]

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[3] This section was substituted by s. 2 of the Madras Rivers Conservancy (Amendment) Act, 1942 (Madras Act XXI of 1942) for s. 11 as substituted for the original s. 11 by s. 2 of Madras Act II of 1885. Madras Act XXI of 1942 was permanently re-enacted by s. 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[4] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

Power to prohibit cultivation.

12. The Conservator of Rivers may, with the previous sanction of the Collector of the district, by an order in writing require any owner or occupier of land usually cultivated, or cultivated with permission under section 11, within such river-bed, to abstain from cultivating such land [1][should it appear that such cultivation will tend to obstruct or divert the course of the river]; and it shall be the duty of such owner or occupier to act in obedience to such order.

Penalty.

Whoever fails to comply with any order made by the Conservator of Rivers under this section shall, on conviction before a Magistrate, be liable to a fine not exceeding rupees five hundred, or, in default of payment, to simple imprisonment not exceeding three months for every such offence.

Constructions, plantations, etc., within river-bed without permission prohibited.

13. (1) Upon a survey being completed and the notification made as provided by this Act, any person intending to make or remove or extend any groyne, building or construction of any kind, or plantation, grasses or trees, within such river-bed [2][including any new formation of land therein] shall, one month before beginning so to make, remove or extend, make an application in writing to the Conservator of Rivers for licence to make or remove or extend such groyne, building, construction, plantation, grassses or trees.

[3][*Explanation.*—'Plantation' shall for the purposes of this Act, include the growing of plants, shrubs or trees which do not ordinarily require the ground to be ploughed or cultivated every year and which are generally propagated by the planting of cuttings, sets, seedlings or shoots such as nanal, alchi, tilla, betel, sugarcane, plantain, bamboo and the like.]

(2) The Conservator of Rivers shall, within one month after receiving such application, pass such orders in writing thereon as he may deem fit.

(3) If the Conservator of Rivers does not pass orders in writing within one month after receiving such application, the applicant may proceed to make, remove or extend such groyne, building, construction, plantation, grasses or trees in compliance with the terms of such application.

(4) An appeal from any order passed by the Conservator of Rivers under clause (2) of this section shall lie to the Collector of the district if the same be preferred within sixty days from the date of the receipt of such order.

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[1] These words were inserted by s. 2 of Madras Act II of 1885.

[2] These words were inserted by s. 3 of the Madras Rivers Conservancy (Amendment) Act, 1942 (Madras Act XXI of 1942), re-enacted permanently by s. 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[3] This explanation was added by *ibid.*

(5) The appeal shall be in writing and shall set forth concisely the grounds of objection to the decision of the Conservator of Rivers, and shall be heard and disposed of by the Collector of the district.

Penalty.

(6) Whoever does any act [1][in contravention of this section] shall be liable on conviction before a Magistrate to a fine not exceeding rupees one thousand or, in default of payment, to simple imprisonment for a period not exceeding six months for every such offence.

Power to direct removal of constructions, plantations, etc.

14. The Conservator of Rivers may, with the previous sanction of the Collector of the district, by an order in writing, require the owner or occupier of any land within any such river-bed to remove any groynes, build ngs, constructions, plantations, grasses, trees or other thing upon such land which the said Conservator may deem to be an obstruction to the course of the stream of such river ; and it shall be the duty of such owner or occupier to act in compliance with such order within a time to be mentioned in such order :

Provided that, in the case of the removal of any building being so ordered , it shall be open to the owner or other person in charge thereof to appeal,through the Collector of the district, against such order to the [2][Board of Revenue] within sixty days from the date of the receipt of such order ; and in such case the order shall remain in abeyance until such appea shall have been decided by the [2][Board of Revenue].

Notice of every appeal under this section, together with a copy of the petition of appeal, shall be sent by the appellant to the Conservator of Rivers at the time the appeal is sent to the Collector.

Penalty.

Whoever fails to comply with any order issued by the Conservator of Rivers under this section shall be liable, on conviction before a Magistrate, to a fine not exceeding rupees one thousand, or, in default of payment, to simple imprisonment for a period not exceeding six months for every such offence.

Particulars to be set forth in permits, and copies to be furnished to Collector.

15. The writings prescribed in sections 11 and 13, clause (2), shall define and describe the kind and extent of the cultivation and the nature of the works or things authorized to be made or done, and it shall be the duty of the Conservator of Rivers from time to time to record or cause to be recorded the particulars contained in such writings in the survey, register, and in the certified copies thereof in the possession of the Collector.

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[1] These words were substituted for the words "prohibited by this section" by s. 3 of the Madras Rivers Conservancy (Amendment) Act, 1942 (Madras Act XXI of 1942), re-enacted permanently by s. 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[2] These words were substituted for the words "Governor in Council" by s. 2 of the Madras Rivers Conservancy (Amendment) Act, 1936 (Madras Act XXII of 1936).

The Conservator of Rivers shall also furnish the Collector of the district with copies of all orders made by him under sections 12 and 14.

Compensation to owner or occupier of land within river-bed for constructions removed.

[1][16. Whenever, under sections 11, 12, 13 or 14, the Conservator of Rivers refuses the owner or occupier of any land permission to plant, cultivate or build on any land, or requires him to remove any groynes, buildings, constructions, plantations, grasses, trees or other obstructions or works existing at the time of the survey, or subsequently authorized by the Conservator of Rivers, such owner or occupier shall be entitled to compensation for any damages sustained by him by reason of such requirement or refusal of permission.]

Power to Conservators to do acts necessary to prevent danger to life or property.

17. [2][The Conservator of Rivers may do or may cause to be done in connexion with the conservancy of any river to which this Act has been applied, any act which appears to him to be necessary to prevent erosion, breach of embankments or the flooding over them, encroachments by the stream or danger to life or property and for such purpose he may, notwithstanding that his acts may involve interference with private rights of property, enter upon any public or private land whether within or outside the river-bed and may dig and use earth from such land, [3](construct works, or plant and grow reeds, grass-shrubs, thereon or cut and remove therefrom such reeds, grass or shrubs) or alter the course of any stream :]

Compensation for damage sustained by such acts.

Provided that compensation shall be made to any person who shall sustain any damage by reason of any act authorized by this section.

The Conservator shall furnish the Collector of the district with a report of every act done by him under this section.

Delegation of powers conferred on Conservator of Rivers to his subordinates.

18. All or any of the powers conferred upon the Conservator of Rivers by the preceding section may be exercised by such of his subordinates as may be nominated by him :

Provided such nomination be notified in the Gazettes of the district in which any part of the river is situated.

Penalty for obstructing Conservators.

19. Any person who obstructs the Conservator of Rivers in doing any act authorized by this Act shall be deemed to have committed the offence described in section 186 of the Indian Penal Code.

Central Act XLV of 1860.

[1] This section was substituted for the original s. 16 by Mad. Act II of 1885, s. 3.

[2] This paragraph was substituted for the original paragraph by s. 4 of the Madras Rivers Conservancy (Amendment) Act, 1942 (Madras Act XXI of 1942). This was permanently re-enacted by s. 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[3] These words were substituted for the words " construct works thereon " by s. 2 of the Madras Rivers Conservancy (Amendment) Act, 1949 (Madras Act XXXI of 1949).

Conservators to be deemed officers in charge of rivers under Central Act I of 1858.

20. Conservators of Rivers under this Act shall be deemed and taken to be officers in charge of rivers within the meaning of Act I of 1858 (*An Act to make lawful compulsory labour for the prevention of mischief by inundation, etc.*).

Power to Conservator to cause removal of obstruction, etc., in case of default.

21. Whenever the Conservator of Rivers, in accordance with the provisions of this Act, requires the owner or occupier of any land to do any act or to remove any obstruction, and such owner or occupier fails to do what he is required to do within a reasonable specified time, such Conservator may cause such act to be done or obstruction to be removed and charge the expense of such act or removal to such owner or occupier.

Recovery of expenses of such removal.

The expense so incurred by the Conservator of Rivers shall be certified by him to the Collector of the district, who shall recover the same from such owner or occupier in the manner provided by law for the recovery of arrears of land-revenue.

Power to make rules.

22. The [1] [State Government] may from time to time make, and when made, alter, add to and repeal, rules not inconsistent with this Act for the prevention of any injury to works constructed upon all rivers or upon any river to which this Act may be applied, and for the prevention of acts or omissions likely to affect injuriously the conservancy of such rivers or river :

Provided that no penalty for any one infringement of any such rules shall exceed rupees fifty.

All rules made under this section shall be published in three successive issues of the [2] [Official Gazette] and of the Gazettes of every district in the Presidency in which any part of the river is situated to which such rules relate, and shall not come into operation until one month after such publication.

Conservators, etc., to be public servants.

23. All Conservators of Rivers, surveyors, and subordinates duly authorized under section 18 of this Act shall be deemed to be public servants within the meaning of the Indian Penal Code. Central Act XLV of 1860.

Fines to be recovered under the Code of Criminal Procedure.

24. All fines imposed by this Act may be recovered in the manner provided in the Code of Criminal Procedure.[3]

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[3] *See now* Central Act V of 1898.

Period of limitation for suits against Conservators, etc.

25. No suit shall be brought against any Conservator, surveyor or subordinate, or any person acting under his direction, for anything done or intended to be done under this Act until after the expiration of three months next after notice in writing shall have been delivered or left at the office of such Conservator, surveyor, subordinate or person, or at his place of abode, explicitly stating the cause of action and the name and place of abode of the intended plaintiff and of his agent in the cause, if any, and upon the trial of such suit the plaintiff shall not be permitted to go into evidence of any cause of action except such as is stated in the notice so delivered, and unless such notice be proved, the Court shall find for the defendant: and every such suit shall be commenced within six months next after the accrual of the cause of action.

No evidence of cause of action except of that stated in notice

Tender of amends.

If any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

Payment into Court.

It shall be lawful for the defendant, before issue joined, by leave of the Court in which any suit is pending, to pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

Easements Act not affected.

26. Nothing contained in this Act shall be deemed to affect the provisions of the Indian Easements Act (Act V of 1882).

MADRAS ACT No. III OF 1885.[1]

[THE MADRAS OUTPORTS LANDING AND SHIPPING FEES ACT, 1885.]

[*10th April 1885* ; *15th May 1885*.]

An Act to make provision for the levying of landing and shipping fees within the outports of the Presidency of Fort St. George.

Preamble. WHEREAS it is expedient to make rules and regulations for the levying of landing and shipping fees within the outports of the Presidency of Fort St. George ; It is enacted as follows :—

[* * * * *].[2]

Short title. **1.** This Act may be called the Madras Outports Landing and Shipping Fees Act, 1885. It shall come into force in any port within the Presidency of Fort St. George from such date as the [3] [Government] may, by notification in the [4] [Official Gazette], direct.

Repeal [5] [**2.** The Madras Pier Act, 1863, and the Madras Pier Amendment Act, 1871, are repealed.]

Interpretation clause. **3.** In this Act, unless there shall be something repugnant in the subject or context,—

"Port". (1) "port" means the space within such limits as may from time to time be defined by the Government for the purposes of this Act by notification in the [4] [Official Gazette], and until a notification is so issued within such limits as may have been defined by the Government under the provisions of Act XII of 1875 (Indian Ports Act) [6]:

"Vessel". (2) "vessel" denotes anything made for the conveyance by water of human beings of property :

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 3rd February 1885, p. 2 ; for Report of the Select Committee, *see ibid*, dated 24th March 1885, p. 1 : for Proceedings in Council *see ibid*, dated 17th February 1885, p. 5 ; and *ibid*, dated 8th April 1885, p. 8.

[2] The words and figure "Part I—Preliminary" were omitted by section 3 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1919 (Madras Act V of 1919).

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "Provincial" was omitted by the Adaptation (Amendment) Order of 1950.

[4] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[5] Section 2 was substituted by section 4 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1919 (Madras Act V of 1919).

[6] *See* now the Indian Ports Act, 1908 (Central Act XV of 1908).

[1] [(3) " Drift " includes timber or other floating matter whether the same is in the possession or under the control of any person or not.] " Drift."

[2] [(4)] " owner," when used in relation to goods, [3] [or drift] includes any consignor, consignee, shipper or agent for the sale, custody, landing or shipping of such goods [3] [or drift]. " Owner."

[2] [(5)] the word " goods " includes wares and merchandise of every description [4] [and carts, carriages, animals, baggage and other articles.] " Goods."

[5] [(6) " Government " or " the Government " means, in relation to a port which is a major port within the meaning of the Indian Ports Act, 1908, the Central Government and, in relation to any other port, the State Government.] " Government."

[6] [* * * * * * * * * *].

4. Landing and shipping fees, according to the rates which may be fixed [7] [by the [8] (Government)] from time to time [9] [may be levied] upon all [10] [passengers and] goods [11] [* * * *] landed from or shipped into any vessel lying or being within the limits of any port within the Presidency of Fort St. George to which this Act may be applied. Such fees shall be payable in addition to all tolls and charges now lawfully levied within such port : Levy of landing and shipping fees.

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[1] The original sub-sections (3) and (4) were renumbered (4) and (5) and this sub-section was inserted by section 5 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1919 (Madras Act V of 1919).

[2] The original sub-sections (3) and (4) were renumbered (4) and (5) by *ibid.*

[3] The words " or drift " were added by section 6, *ibid.*

[4] The words within square brackets were added by section 7, *ibid.*

[5] This clause was inserted by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[6] The words and figures " Part II—Of the payment of Landing and Shipping Fees " were omitted by section 3 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1919 (Madras Act V of 1919).

[7] The words " by the Governor in Council " were inserted by section 3 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1915 (Madras Act I of 1916).

[8] This word was substituted for the words " Governor in Council " by the Adaptation Order of 1937.

[9] The words " may be levied " were substituted for the words " shall be levied " by section 3 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1915 (Madras Act I of 1916).

[10] The words within square brackets were inserted by section 8 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1919 (Madras Act V of 1919).

[11] Certain words were omitted by *ibid.*

[1] [Provided that the [2] [Government] may, by general or special order, exempt any class or classes of [3] [passengers or] goods from payment of fees under this Act, and may, in special cases, remit the whole or any portion of any charge levied under this section.]

Rates of fees to be notified.

5. Such rate shall be notified in the [4] [Official Gazette] at least one month before the date from which the same shall become payable, and shall be legibly painted in the English, Tamil, Telugu and Hindustani languages on boards exhibited at the places appointed under section 6.

Rules.

6. The Government may from time to time make rules—

(*a*) appointing places where goods [5] [or particular classes of goods] intended for shipment or landed from ships within the port are to be placed for the purpose of assessing the fees payable under this Act [5] [and places where passengers may land or embark]

(*b*) regulating the manner in which such fees shall be assessed and the time when they shall be paid ;

[6] [(*c*) providing for the ascertainment and recovery of the amount of any damage that may be caused to a pier, jetty, wharf, quay or other work in a port by any person or by any vessel or drift ; and

(*d*) generally for carrying out the purposes of this Act.]

Such rules and any alteration or cancellation thereof shall be published in the [4] [Official Gazette], and shall thereupon have the force of law.

Appointment of officer to levy and receive landing and shipping fees.

7. The [2] [Government] shall appoint an officer of Government to levy and receive all fees payable under this Act, and to pay the same into such treasury, and keep such accounts as the Government may from time to time prescribe. The officer so appointed may, with the sanction of the Government, appoint such persons as he shall think fit to assist him in carrying out the provisions of this Act, all of whom shall wear a distinguishing badge of a kind to be prescribed by such officer.

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[1] The proviso to section 4 which was repealed by Madras Act VIII of 1914 was added by section 3 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1915 (Madras Act I of 1916).

[2] This word was substituted for the words " Governor in Council " by the Adaptation Order of 1937.

[3] The words " passengers or " were inserted by section 9 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1919 (Madras Act V of 1919).

[4] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

[5] These words were inserted by section 10 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1919 (Madras Act V of 1919).

[6] Clauses (*c*) and (*d*) were added by section 11, *ibid*.

Detention of goods until payment of fees.

8. It shall be lawful for the officer of Government appointed under this Act or any of his assistants to detain any such goods until the lawful fees are paid ; it shall be the duty of such officer to give notice in writing to the owner or consignee if known, stating the amount of fees and charges payable in respect of such goods, and, in the event of such payment being refused or delayed for the space of fourteen days from the date of such notice if the owner or consignee of such goods shall be in the port concerned, or otherwise for the space of one calendar month from the date on which such fees are payable, it shall be lawful for such officer of Government to sell or cause to be sold by public auction the said goods, and after paying the expenses of such detention and sale and double the amount of the fees by way of a fine, to pay the surplus, if any, of the proceeds of the sale to the owner or consignee or other person entitled thereto, if claimed within six months from the date of sale :

Proviso.

Provided that, if the goods are of a perishable nature, the said officer of Government may sell the same or cause them to be sold at such earlier period being not less than twenty-four hours after the landing of the goods as he shall think fit.

[1] [* * * * * * * * *].

[2] [**9.** Where any vessel or drift fouls a pier, jetty, wharf or quay and causes damage thereto, the owner or master of the vessel or the owner of the drift, as the case may be, shall be liable for the amount of such damage which may be ascertained and recovered, in accordance with rules made by the [3] [Government], either by seizure and sale of such vessel or drift and of any property thereon or in such other manner as may be prescribed.]

[4] [**10.** (1) The law for the time being in force for the punishment of offences relating to the levy or payment of duties of sea-customs and for the reward of informers shall, as far as may be, apply to similar offences committed in respect of fees leviable under this Act.

(2) Save as provided in sub-section (1) any contravention of any rule made under this Act shall be punishable with fine not exceeding one hundred rupees.]

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[1] The words and figures "Part III—Penalties" were omitted by section 3 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1919 (Madras Act V of 1919).

[2] The original section 9 was renumbered as section 10 and the new section 9 was added by section 12, *ibid*.

[3] This word was substituted for the words "Governor in Council" by the Adaptation Order of 1937.

[4] This section was substituted for the original section 10 as renumbered by section 13 of the Madras Outports Landing and Shipping Fees (Amendment) Act, 1919 (Madras Act V of 1919).

THE MADRAS ABKARI ACT, 1886.

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MADRAS ACT No. I OF 1886.[1]

[THE MADRAS ABKARI ACT, 1886.]

[*11th January 1886* ; *2nd February 1886.*]

An Act to consolidate and amend the Abkari Law of the Presidency of Madras.

WHEREAS it is expedient to consolidate and amend the law relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs in the Presidency of Madras; It is enacted as follows :—

CHAPTER I.

PRELIMINARY AND DEFINITIONS.

Short title.

1. This Act may be cited as "The Madras Abkari Act, 1886."

Extent.

It extends to the whole of the Presidency of Madras ;

Commencement.

and it shall come into force in any local area[2] within the said Presidency to such extent and from such date as the [3][State Government] by notification shall direct.

Repeal of enactments.

2. From the date on which this Act comes into force in any local area the enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule :

Provided that all licences granted under any of the said enactments in force on the date on which this Act comes into force in any local area shall continue in force for the periods for which the same have been respectively granted subject to the provisions of the enactments under which such licences were granted :

Provided further that the said repeal shall not affect any act done or any offence committed or any proceedings commenced or any claim which has arisen, or any penalty which has been incurred, before this Act comes into force.

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, Supplement, dated 14th October, 1884, p. 13 ; for last report of the Select Committee, *see ibid*, Supplement, dated 9th December, 1885, p. 1 ; for Proceedings in Council, *see ibid*, dated 4th November, 1884, p. 3 ; *ibid*, dated 21st August, 1885, p. 11 ; *ibid*, dated 23rd October, 1885, p. 15 ; *ibid*, dated 18th November 1885, p. 23 ; *ibid*, dated 6th January, 1886, p. 1.

[2] All the provisions of the Act are in force in the local areas of the State in which the Madras Prohibition Act, 1937 (Madras Act X of 1937) has not come into force.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word 'State" was substituted for "Provincial" by the Adaptation Order of 1950.

(Chapter I.—Preliminary and Definitions.)

3. In this Act, unless there be something repugnant in the subject or context— Interpretation.

(1) "abkari-revenue" means revenue derived or derivable from any duty, fee, tax, fine or confiscation imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs. "Abkari-revenue."

(2) "Abkari-officer" means the Commissioner, a Collector, or any officer or other person lawfully appointed or invested with powers under sections 4 or 5 and includes the Board of Revenue when exercising any of its functions or powers in respect of abkari revenue. "Abkari-officer."

(3) "Commissioner" means the officer appointed by Government under section 4, clause (*a*). "Commissioner."

(4) "Collector" means a Collector of land revenue, or any person appointed under section 4, clause (*b*), to exercise all the powers or to perform all the duties of a Collector under this Act. "Collector."

(5) "Abkari-inspector" means an officer appointed under section 4, clause (*d*). "Abkari-inspector."

(6) "imprisonment" means imprisonment of either description as defined in the Indian Penal Code. "Imprisonment."

(7) "toddy" means fermented or unfermented juice drawn from a coconut, palmyra, date, or any other kind of palm tree. "Toddy."

(8) "spirits" means any liquor containing alcohol and obtained by distillation [1] [whether it is denatured or not]. "Spirits."

[2] [*Explanation.*—"Denatured" means subjected to a process prescribed by the [3] [State Government] by notification for the purpose of rendering unfit for human consumption.]

(9) "liquor" includes spirits of wine, methylated spirits, spirits, wine, toddy, beer and all liquid consisting of or containing alcohol. "Liquor."

(10) "beer" includes ale, stout, porter and all other fermented liquors usually made from malt. "Beer."

(11) "Country liquor" means liquor manufactured in [4] [India] on which duty of excise has not been levied or is not leviable under this Act at the full rates of duty chargeable on liquor imported into [4] [India] from foreign countries by sea. "Country liquor."

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[1] These words were inserted by section 3 (i) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] This explanation was substituted by section 2 of the Madras Abkari (Amendment) Act, 1915 (Madras Act I of 1915).

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] This word was substituted for the words "British India" by the Adaptation (Amendment) Order of 1950.

"Foreign liquor."

(12) "foreign liquor" includes all liquor other than country liquor :

Provided that in any case in which doubt may arise the [1] [State Government] may declare by notification what for the purposes of this Act shall be deemed to be "country liquor" and what "foreign liquor."

"Intoxicating drug."

[2] [(13) "intoxicating drug" means—

(i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi*, or *ganja* ;

(ii) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport ;

(iii) any mixture, with or without neutral materials of any of the above forms of intoxicating drug, or any drink prepared therefrom ; and

(iv) any other intoxicating or narcotic substance which the [4] [State Government] may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930.]

"Sale" or "selling."

(14) "sale" or "selling" includes any transfer otherwise than by way of gift.

"Import."

[3] [(15) "import" except in the phrase 'import into [4] [India,] means to bring into the [5] [State] otherwise than across a customs frontier as defined by the Central Government ;

"Export."

(16) "export" means to take out of the [5] [State] otherwise than across a customs frontier as defined by the Central Government ;]

"Transport."

(17) "transport" means to move from one place to another within the [6] [State].

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] This definition was substituted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930).

[3] Clauses (15), and (16) were substituted for the original clauses (15) and (16) by the Adaptation Order of 1937.

[4] This word was substituted for the words "British India" by the Adaptation (Amendment) Order of 1950.

[5] This word was substituted for the word "Province" by the Adaptation Order of 1950.

[6] The word "Province" was substituted for the words "Madras Presidency" by the Adaptation Order of 1937 and the word "State" was substituted for "Province" by the Adaptation Order of 1950.

[1][(17-A) "cultivation" includes the tending or protecting of a plant during growth and does not necessarily imply raising it from seed.] "Cultivation."

(18) "manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous, or intoxicating liquor or intoxicating drug is produced [2][prepared or blended] and also re-distillation and every process for the rectification of liquor. "Manufacture."

[1][(18-A) "bottle" means to transfer liquor from a cask or other vessel to a bottle, jar, flask or similar receptacle for the purpose of sale whether any process of manufacture be employed or not and includes rebottling.] "Bottle."

(19) "rectification" includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith. "Rectification."

(20) "place" includes also a house, building, shop, tent and vessel. "Place."

[3][(21) "police station" includes any place which the [4][State Government] may, by notification, declare to be a police station for the purposes of this Act.] "Police station."

[5][(22) "excise duty" and "countervailing duty" mean any such excise duty or countervailing duty, as the case may be, as is mentioned in [6][entry 51 of List II in the Seventh Schedule to the Constitution.] "Excise duty"; "Countervailing duty."

[7][(23) "excisable article" means— "Excisable article."

(*a*) any alcoholic liquor for human consumption; or

(*b*) any intoxicating drug.]

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[1] Clauses (17-A) and (18-A) were inserted by section 3 (iv) and 3 (vi) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The words "prepared or blended" were substituted for the words "or prepared" by section 3 (v), *ibid.*

[3] This sub-section was inserted by section 3 (vii) *ibid.*

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[5] Clauses (22) and (23) were inserted by the Adaptation Order of 1937.

[6] These words and figures were substituted for the words and figures "Item 40 of List II in the Seventh Schedule to the Government of India Act, 1935" by the Adaptation (Amendment) Order of 1950.

[7] This clause was substituted for the original clause (23) by *ibid.*

CHAPTER II.

ESTABLISHMENT AND CONTROL.

4. Notwithstanding anything contained in Regulations I and II of 1803[1], the [2][State Government] may, from time to time, by notification applicable to any district or local area in which this Act is in force,

The State Government may appoint an officer to control the administration of the Abkari department;

(*a*) appoint an officer, who shall exercise all the powers of a Collector in respect of the abkari revenue and who shall, either as a member of the Board of Revenue or subject to the orders of the Board of Revenue or independently of the Board of Revenue, as the [2][State Government] may direct, have the control of the administration of the Abkari department or of the collection of the abkari revenue or of both; and may direct that the control exercised by the Board of Revenue over Collectors in respect of the abkari revenue shall be exercised by such officer;

may appoint special Collectors of Abkari-revenue;

(*b*) appoint any person other than the Collector of land revenue to exercise all or any of the powers and to perform all or any of the duties of a Collector in respect of the abkari-revenue, either concurrently with or in exclusion of the Collector of land revenue, subject to such control as the [2][State Government] may from time to time direct;

may withdraw abkari powers from Board of Revenue or Collectors of land revenue;

(*c*) withdraw from the Board of Revenue or the Collector of land revenue any or all of their or his powers in respect of the abkari-revenue;

pointers to offi caction take unde tions 40 to 53,

(*d*) appoint officers to perform the acts and duties mentioned in sections 40 to 53 inclusive of this Act;

and subordinate officers;

(*e*) appoint subordinate officers of such classes and with such designations, powers, and duties under this Act as the [2][State Government] may think fit;

may appoint any Government officer or other person to act as above;

(*f*) order that all or any of the powers and duties assigned to any officers under clauses (*d*) and (*e*) of this section shall be exercised and performed by any Government officer or any person;

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[1] These Regulations are the Madras Board of Revenue Regulation, 1803, and the Madras Collector's Regulation, 1803. *See* now the Repealing and Amending Act, 1901 (Central Act XI of 1901).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(Chapter II.—Establishment and Control.
Chapter III.—Import, Export and Transport.)

and may delegate any of their powers to an Abkari-officer.

(*g*) delegate to any Abkari-officer all or any of [1][their] powers under this Act.

Rules for the guidance of Abkari-officers.

5. The [2][State Government] may from time to time make rules—

(1) prescribing the powers and duties under this Act to be exercised and performed by Abkari-officers of the several classes; and

(2) regulating the delegation by the Board of Revenue, by the Commissioner, or by Collectors of any powers conferred by this Act or exercised in respect of abkari-revenue under any Act for the time being in force.

Power of State Government to authorize officers to admit persons arrested to bail.

[3][**5-A.** The [2][State Government] may, by notification, and subject to such conditions as may be prescribed in such notification, empower all or any of the officers or classes of officers or persons mentioned in section 34, either by name or in virtue of their office, throughout the Presidency or in any local area, to admit a person arrested under that section to bail to appear, when summoned or otherwise directed before an Abkari-officer having jurisdiction to inquire into the offence for which such person has been arrested, and may cancel or vary such notification.]

CHAPTER III.

IMPORT, EXPORT AND TRANSPORT.

Import of liquor or intoxicating drug.

6. No liquor or intoxicating drug shall be imported unless, being liable to the payment of duty under the Indian Tariff Act, 1882,[4] or any other law for the time being in force relating to the duties of customs on goods imported into [5][India], it has been dealt with according to such law:

Provided that subject to the orders of the [2][State Government] the Collector may, from time to time, permit the import of liquor or intoxicating drugs, or of any kind of liquor or intoxicating drugs, other than liquor or intoxicating drugs

[1] This word was substituted for the word "his" by the Adaptation Order of 1937.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This section was added by section 2 of the Madras Abkari (Amendment) Act, 1905 (Madras Act I of 1905).

[4] Repealed by Central Act VIII of 1894. *See* now the Indian Tariff Act, 1934.

[5] This word was substituted for the words "British India" by the Adaptation (Amendment) Order of 1950.

liable to the payment of duty under such law as aforesaid, on payment of the duty, if any, to which the same is liable under this Act and on such other terms as he thinks fit, and may cancel such permission.

Export of liquor or intoxicating drug.

7. No liquor or intoxicating drug shall be exported unless it has been lawfully imported by sea into any port in the said Presidency, and its export is permitted by competent authority on payment of the fee or duty, if any, to which it is liable under any law for the time being in force on its transhipment or re-exportation :

Provided that subject to the orders of the [1][State Government] the Collector may, from time to time, permit the export of liquor or intoxicating drugs, or of any kind of liquor or intoxicating drugs, on payment of the duty, if any, to which the same is liable under this Act and on such other terms as he thinks fit, and may cancel such permission.

Sections 6 and 7 not to affect certain laws and powers of Central Government.

8. Nothing in the last two preceding sections shall be deemed to affect any law for the time being in force which empowers the [2][Central Government] to prohibit or restrict the importation [3][into India] of liquor or of intoxicating drugs or which empowers the [2] [Central Government] to exempt any liquor or intoxicating drug from the whole or any part of the duties of customs to which it is liable under any law for the time being in force.

Prohibition of the transport of liquor.

9. The [1][State Government] may, from time to time, by notification, prohibit the transport of liquor or of intoxicating drugs, or of any kind of liquor or intoxicating drugs, from any local area into any other local area.

Transport of liquor or intoxicating drug.

10. No liquor or intoxicating drug exceeding such quantity as the [1][State Government] may from time to time prescribe by notification, either generally [4][* * * *] or for any local area, shall be transported except under a permit issued under the provisions of the next following section :

Provided that in the case of foreign liquor transported for *bona fide* private consumption or for sale at any place at which the sale of such liquor is duly licensed or permitted

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "Governor-General in Council" by the Adaptation Order of 1937.

[3] The words "into British India" were inserted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930) and the word "India" was substituted for the words "British India" by the Adaptation (Amendment) Order of 1950.

[4] The words "for the whole Presidency" were omitted by the Adaptation Order of 1937.

(Chapter III.—Import, Export and Transport.
Chapter IV.—Manufacture, Possession and Sale.)

under the provisions of this Act such permits shall be dispensed with unless the [1][State Government] shall by notification otherwise direct with respect to any local area.

Permits for transport.

11. Permits for the transport of liquor or intoxicating drugs may be issued by the Collector or by any person duly empowered in that behalf.

Such permits shall be either general for definite periods and kinds of liquor or intoxicating drugs or special for specified occasions and particular consignments only.

Every permit shall specify—

(*a*) the name of the person authorized to transport liquor or intoxicating drugs ;

(*b*) the period for which the permit is to be in force ;

(*c*) the quantity and description of liquor or intoxicating drugs for which it is granted ; and

(*d*) any other particulars which the [1][State Government] may prescribe.

General permits shall be granted only to persons licensed under this Act and shall cover any quantity of liquor transported at any one time within the quantity specified in the permit.

Permits shall extend to and include servants and other persons employed by the grantees and acting on their behalf.

CHAPTER IV.

MANUFACTURE, POSSESSION AND SALE.

Manufacture of liquor or intoxicating drug prohibited except under the provisions of this Act.

12. No liquor or intoxicating drug shall be manufactured ; no hemp plant (*Cannabis Sativa* [2][ ]) [3][ ] shall be cultivated ;

[4][no portion of the hemp [5]( ) plant from which any intoxicating drug can be manufactured shall be collected] ;

no toddy-producing tree shall be tapped ;

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "or *Indica*" were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930).

[3] The words "or coca plant (*Erythroxylon coca*)" which were inserted by section 4 (i) of the Madras Abkari (Amendment) Act, 1913, were omitted by *ibid.*

[4] This paragraph was inserted by section 4 (ii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[5] The words "or coca" were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930).

no toddy shall be drawn from any tree;

no distillery or brewery shall be constructed or worked;

[1][ ]

[2][no liquor shall be bottled for sale; and]

no person shall use, keep, or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any liquor other than toddy or any intoxicating drug, except under the authority and subject to the terms and conditions of a licence granted by the Collector in that behalf, or under the provisions of section 21.

Provided that the [3][State Government] may by notification direct that in any local area it shall not be necessary to take out a licence for the manufacture of liquor for *bona fide* home consumption.

[4][Licences granted under this section shall extend to and cover servants and other persons employed by the licensees and acting on their behalf.]

Possession of liquor or intoxicating drugs in excess of the quantity prescribed by Government prohibited.

13. No person not being a licensed manufacturer or vendor of liquor or intoxicating drugs shall have in his possession any quantity of liquor or intoxicating drugs in excess of such quantities as the [3][State Government] may from time to time prescribe by notification, either generally [5][or specially with regard to "persons, places or time"] in respect of any specified description or kind of liquor or intoxicating drug, unless under a licence granted by the Collector in that behalf.

Provided that—

No fee to be charged for licence for possession for private consumption.

(1) No fee shall be charged for any such licence granted for the possession of such liquor or intoxicating drugs for *bona fide* private consumption or use.

Proviso as regards foreign liquor.

(2) Nothing in this section extends to any foreign liquor [6][other than denatured spirit] in the possession of any warehouseman as such [7][ ].

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[1] The word "and" was omitted by section 4 (iii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] These words were inserted by *ibid.*

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] This paragraph was inserted by section 4 (iv) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[5] These words were substituted for the words "for the whole Presidency or for any local area" by section 5 (i), *ibid.*

[6] These words were inserted by section 5 (ii) *ibid.*

[7] The words "or of any person for his *bona fide* private consumption and not for sale" were omitted by section 2 of the Madras Abkari (Amendment) Act, 1947 (Madras Act XXII of 1947).

(*Chapter IV.—Manufacture, Possession and Sale.*)

Power to prohibit possession of liquor or drug.

[1][13-A. The [2](State Government) may by notification prohibit the possession by any person or class of persons either [3](generally) or in any local area of any liquor or intoxicating drug either absolutely or subject to such conditions as [4](they) may prescribe.]

Establishment of public distilleries and of warehouses.

14. The Commissioner may with the previous sanction of the [2][State Government]—

(*a*) establish a public distillery in which liquor or any kind of liquor may be manufactured under a licence granted under section 12 on such conditions as the [2][State Government] [5][deem] fit to impose ;

(*b*) discontinue any public distillery so established ;

(*c*) license at or in connexion with any licensed distillery or elsewhere a private warehouse wherein liquor and intoxicating drugs may be deposited and kept without payment of of duty ;

(*d*) establish a public warehouse wherein liquor and intoxicating drugs may be deposited and kept without payment of duty ; and

(*e*) discontinue any public warehouse so established.

Public warehouses shall be for the general accommodation of persons desiring to warehouse liquor or intoxicating drugs subject to duty pending removal for local consumption or for export.

Sale of liquor or intoxicating drug without licence prohibited. Power to exempt toddy.

15. No liquor or intoxicating drug shall be sold without a licence from the Collector, provided that a person having the right to the toddy drawn from any tree may sell the same without a licence to a person licensed to manufacture or sell toddy under this Act, and a cultivator or owner of any plant from which an intoxicating drug is produced may sell without a licence those portions of the plant from which the intoxicating drug is manufactured or produced to any person licensed under this Act to sell, manufacture or export intoxicating drugs [6][or to any officer whom the Commissioner may generally or specially authorize].

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[1] This section was inserted by section 6 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This word was substituted for the words "throughout the whole Presidency" by the Adaptation Order of 1937.

[4] This word was substituted for the word "he" by *ibid.*

[5] This word was substituted for the word "deems" by *ibid.*

[6] These words were inserted by section 7 (i) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

(*Chapter IV.—Manufacture, Possession and Sale.*)

[1][Provided that a licence for sale in more than one district may be granted by the Commissioner.

Provided also that on such conditions as may be determined by the Commissioner a licence for sale granted under the excise law in force in another [2][State] may be deemed to be a licence granted under this Act.]

Provided further that the [3][State Government] may [4][by notification] declare that any or all of the provisions of this Act shall not apply in any local area to trees tapped, or to toddy drawn [5][under such conditions as the Commissioner may prescribe].

[6][Nothing in this section applies to the sale of any foreign liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease.]

[7][*Explanation.*—The supply of liquor by clubs to their members on payment of a price or of any fee or subscription is not a sale within the meaning of this section, but a fee according to a scale of fees to be fixed by the [8](State Government) shall be levied from such clubs by the Commissioner.]

Exclusive privileges of manufacture, etc., may be granted.

16. It shall be lawful for the [3][State Government] to grant to any person or persons on such conditions and for such period as may seem fit the exclusive or other privilege—

(1) of manufacturing or supplying by wholsale, or

(2) of selling by retail, or

(3) of manufacturing or supplying by wholesale and selling by retail,

any country liquor or intoxicating drugs within any local area.

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[1] These provisos were substituted for the first proviso by section 7 (ii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913.)

[2] This word was substituted for the word "Province" by the Adaptation Order of 1950.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] These words were substituted for the words "in like manner" by section 7 (iii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[5] These words were substituted for the words "in pots or other receptacles freshly coated internally with lime, for the purpose of the manufacture of jaggery" by *ibid.*

[6] This was added by section 7 (iv), *ibid.*

[7] This explanation was added by section 2 of the Madras Abkari (Amendment) Act, 1929 (Madras Act XVIII of 1929).

[8] The words "Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincia" by the Adaptationl Order of 1950.

(Chapter IV.—Manufacture Possession and Sale. Chapter V.—Duties.)

No grantee of any privilege under this section shall exercise the same until he has received a licence in that behalf from the Collector.

In such cases, if the [1] [State Government] shall by notification so direct, the provisions of section 12 relating to toddy and toddy-producing trees shall not apply.

CHAPTER V.

DUTIES.

[2][**17.** [3] (An excise duty or countervailing duty) of such amount as the [1](State Government) may prescribe shall, if [4](they) so direct, be levied on all[5] (excisable articles)— Excise duty or countervailing duty on excisable articles.

(*a*) permitted to be imported under the proviso to section 6; or

(*b*) permitted to be exported under the proviso to section 7; or

(*c*) permitted under section 11 to be transported; or

(*d*) manufactured under any licence granted under section 12; or

(*e*) manufactured at any distillery established under section 14; or

(*f*) issued from a distillery or warehouse licensed or established under section 12 or section 14; or

(*g*) sold in any part of the said Presidency.

[6](. . . . . .)]

18. Such duty may be levied in one or more of the following ways— How duty may be imposed.

(*a*) by duty of excise to be charged in the case of spirits or beer either on the quantity produced in or passed out of [7][a distillery, brewery or warehouse licensed or established under section 12 of section 14] as the case may be; or in accordance with such scale of equivalents, calculated on the

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] This section was substituted for the original by section 8 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[3] These words were substituted for the words "A duty" by the Adaptation Order of 1937.

[4] This word was substituted for the word "he" by *ibid.*

[5] These words were substituted for the words "liquor and intoxicating drugs" by *ibid.*

[6] The proviso was omitted by *ibid.*

[7] These words were substituted for the words "the distillery or brewery" by section 9 (i) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as the [1][State Government] may prescribe ;

(*b*) in the case of intoxicating drugs by a duty to be rateably charged on the quantity produced or manufactured [2][or issued from a warehouse licensed or established under section 14] ;

(*c*) by payment of a sum in consideration of the grant of any exlcusive or other privilege—

(1) of manufacturing or supplying by wholesale, or

(2) of selling by retail, or,

(3) of manufacturing or supplying by wholesale and selling by retail any country liquor or intoxicating drug in any local area and for any specified period of time ;

(*d*) by fees on licences for manufacture or sale ;

(*e*) in the case of toddy, or spirits manufactured from toddy, by a tax on each tree from which toddy is drawn, to be paid in such instalments and for such period as the [1][State Government] may direct ; or

(*f*) by [3][import, export or] transport duties assessed in such manner as the [1][State Government] may direct.

[4][Provided that where there is a difference of duty as between two licence periods, such difference may be collected in respect of all stocks of country liquor or intoxicating drugs held by licensees at the close of the former period.]

Tax for tapping unlicensed trees, from whom leviable.

19. When duty is levied by way of tax on toddy trees under section 18, the [1][State Government] may by notification direct that the licence required under section 12 shall be granted only on the production by the person applying for it of the written consent of the owner, or person in possession, of such trees to the licence being granted to such person so applying for it ; and when such notification has been issued such tax shall, in default of payment by the licensee, be recoverable from the owner or other person in possession who has so consented.

When, in like case, trees are tapped without licence, the tax due shall be recoverable primarily from the tapper or in default by him from the occupier, if any, of the land, or if he trees do not belong to the occupier of the land, or if the land

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were added by section 9 (ii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[3] These words were added by section 9 (iii), *ibid.*

[4] This proviso was inserted by section 9 (iv), *ibid.*

is not occupied, from the person, if any, who owns or is in possession of the trees unless he proves that the trees were tapped without his consent.

Duties may be farmed.

20. All or any of the duties leviable under this Act in any local area may, with the sanction of the [1][State Government], be farmed subject to such payment and on such other conditions as the [1][State Government] shall prescribe. Farmers of duties under this section shall take out licences as such from the Collector.

Toddy farmer may grant licence.

21. When the exclusive privilege of manufacturing toddy has been granted under section 16, the [1][State Government] may declare that the written permission of the grantee to draw toddy shall have, within the area to which the privilege extends, the same force and effect as a licence from the Collector for that purpose under section 12.

Farmer may let or assign.

22. In the absence of any contract or condition to the contrary, any grantee of any exclusive or other privilege may let or assign the whole or any portion of his privilege or farm. But no such lessee or assignee shall exercise any rights as such unless and until the grantee or farmer, as the case may be, shall have applied to the Collector for a licence to be given to such lessee or assignee, and such lessee or assignee shall have received the same.

Recovery by farmer of rents due to him.

23. It shall be lawful for any such grantee, farmer, lessee or assignee as aforesaid to proceed against any person holding under him for the recovery of any money due to him as if it were an arrear of rent recoverable under the law for the time being in force with regard to landholder and tenant:

Provided that nothing contained in this section shall affect the right of any such grantee, farmer, lessee or assignee to recover by civil suit any such amount due to him from any such person as aforesaid.

Saving for duties being levied at the commencement of the Constitution.

[2][23-A.] [3](1) Until provision to the contrary is made by Parliament by law, the State Government may continue to levy any duty to which this section applies, which it was lawfully levying immediately before the commencement of the Constitution under this Chapter as then in force.

(2) The duties to which this section applies are—

(*a*) any duty on any liquor or intoxicating drug other than an excisable article within the meaning of this Act; and

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] This section was inserted by the Adaptation Order of 1937.

[3] Sub-sections (1) and (2) were substituted for the original sub-sections (1) and (2) by the Adaptation (Amendment) Order of 1950.

(*b*) any duty on an excisable article, or a medicinal or toilet preparation containing alcohol, produced outside India and imported into the State, whether the import is across any such customs frontier as is referred to in section 3 (15) or not.]

(3) Nothing in this section shall authorize the levy of any duty which, as between goods manufactured or produced in the [1][State] and similar goods not so manufactured or produced, discriminates in favour of the former or which, in the case of goods manufactured or produced outside the [1][State] discriminates between goods manufactured or produced in one locality and, similar goods manufactured or produced in another locality.]

CHAPTER VI.

LICENCES, ETC.

Form and conditions of licences, etc.

24. Every licence or permit granted under this Act shall be granted—

(*a*) on payment of such fees, if any ;

(*b*) for such period ;

(*c*) subject to such restrictions and on such conditions ; and

(*d*) shall be in such form and contain such particulars as the [2][State Government] may direct either generally, or in any particular instance in this behalf.

Counterpart agreement to be executed by licensees.

25. Every person taking out a licence under this Act may be required to execute a counterpart agreement in conformity with the tenor of his licence, and to give such security for the performance of his agreement as the Collector may require.

Power to recall licences, etc.

26. The Collector may cancel or suspend any licence or permit granted under this Act.

(*a*) if any fee or duty payable by the holder thereof be not duly paid ; or

(*b*) in the event of any breach by the holder of such licence or permit, or by his servants, or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence or permit ; or

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[1] This word was substituted for the word " Province " by the Adaptation Order of 1950.

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adpation Order of 1950.

(*c*) if the holder thereof is convicted of any offence against this Act or any other law for the time being in force relating to abkari-revenue, or of any cognizable and non-bailable offence [1][or of any offence [2](under the Dangerous Drugs Act, 1930, or) under the Merchandise Marks Act, 1889, or under sections 478 to 489 of the Indian Penal Code or is punished for any offence referred to in the eighth item of the schedule in section 167 of the Sea Customs Act, 1878]; or

Central Act II of 1930. Central Act IV of 1889. Central Act XLV of 1860. Central Act VIII of 1878.

(*d*) where a licence or permit has been granted on the application of the holder of an exclusive or other privilege or of a farmer of duties under this Act, on the requisition in writing of such person; or

(*e*) if the conditions of the licence or permit provide for such cancelment or suspension at will.

CHAPTER VII.

General Provisions.

Certain licensees required to keep with instruments for testing, etc.

[3][**27.** Every person who manufactures or sells any liquor or intoxicating drugs under a licence granted under this Act shall be bound—

(*a*) to supply himself with such measures, weights and instruments as the [4](State Government) may prescribe and to keep the same in good condition; and

(*b*) on the requisition of any Abkāri-officer duly empowered in that behalf at any time to measure, or weigh any liquor or intoxicating drug or to test any liquor in his possession in such manner as the said Abkāri-officer may require.]

Recovery of duties, etc.

28. All duties, taxes, fines and fees payable to [5][the State Government] direct under any of the foregoing provisions of this Act or of any licence or permit issued under it, and all amounts due to [5][the State Government] by any grantee of a village or by any farmer under this Act or by any person on account of any contract relating to the abkari-revenue may be recovered from the person primarily liable to pay

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[1] These words and figures were inserted by section 10 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] These words and figures were inserted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930).

[3] This section was substituted by section 11 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[5] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

the same, or from his surety (if any), as if they were arrears of land revenue, and in case of default made by a grantee of a privilege or by a farmer, the Collector may take the grant or farm under management at the risk of the defaulter or may declare the grant or farm forfeited and resell it at the risk and loss of the defaulter. When a grant or farm is under management under this section, the Collector may recover any moneys due to the defaulter by any lessee or assignee as if they were arrears of land revenue.

Power to frame rules.

29. [1][(1) The [2](State Government) may make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision the [2](State Government) may make rules]—

(*a*) regulating the mode in which toddy may be supplied to licensed vendors of the same, or to persons who distil spirits from it, or who use it in the manufacture of bread ;

(*b*) for determining the number of licences of each description to be granted in any district or place ;

(*c*) for regulating the number, size and description of stills, utensils, implements and apparatus to be used in any distillery ;

(*d*) prescribing the instruments to be used in the testing of liquor and the tables of corrections according to temperature to be used therewith ;

(*e*) prescribing the measures to be used for the sale of[3] [ ] liquor ;

(*f*) fixing for any local area the minimum price below which any country liquor shall not be sold ;

(*g*) for the warehousing of liquor and intoxicating drugs and for the removal of the same from any warehouse in which they are deposited for deposit in any other warehouse or for local consumption or for export ;

(*h*) for the inspection and supervision of stills, distilleries, private warehouses and breweries ;

(*i*) for the management of any public distillery or public warehouse established under section 14 ;

(*j*) for placing the preparation of intoxicating drugs and the storage, import, export, possession or transport of liquor or intoxicating drugs under such supervision and control as may be deemed necessary for the purposes of this Act ;

[1] This was substituted for the words "The Governor in Council may from time to time make rules" by section 12 (i) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] The word "country" was omitted by section 12 (ii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

(Chapter VII.—General Provisions.)

(*k*) prohibiting the use of any article which [1][the State Government] shall deem to be noxious or otherwise objectionable in the manufacture of liquor or of any intoxicating drug ;

[2][(*l*) regulating the cultivation of the hemp [3][ ]; [4][plant], the collection of those portions of such [4][plant] from which intoxicating drugs can be manufactured and the manufacture of such drugs therefrom ;

[2] (*m*) (1) declaring the process by which spirit manufactured in or imported into the Presidency shall be denatured;

(2) for causing such spirit to be denatured through the agency or under the supervision of the Excise officers ;

(3) for ascertaining whether such spirit has been denatured ;

[2] (*n*) regulating the bottling of liquor for purposes of sale ;

(*o*) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this Act or under any rule made thereunder, or by what authorities such orders may be revised, and prescribing the time and manner of presenting appeals, and the procedure for dealing therewith ;]

[2][(*p*)] for the grant of batta to witnesses, and of compensation for loss of time to persons released by any Abkāri-officer under section 40 (3) of this Act on the ground that they have been improperly arrested and to persons charged before a Magistrate with offences under this Act and acquitted ;

[2] [(*q*)] regulating the power of Abkāri-officers to summon witnesses from a distance under section 44 ;

[2][(*r*)] for the disposal of articles confiscated and of the proceeds thereof.

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[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] Clauses (*l*) to (*o*) were inserted after clause (*k*) and the original clauses (*l*), (*m*) and (*n*) were relettered as (*p*), (*q*) and (*r*) respectively by section 12 (ii) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[3] The words " and coca " were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930).

[4] This word was substituted for the word " plants " by Schedule II *ibid.*

CHAPTER VIII.

POWERS AND DUTIES OF OFFICERS, ETC.

Magistrate may issue a search warrant on application.

30. If any [1] [Collector or] Magistrate upon information [2] [obtained] and after such inquiry as he thinks necessary, has reason to believe that an offence under section 55 or section 57 or section 58 of this Act has been committed, he may issue a warrant for the search for any liquor, intoxicating drug, materials, still, utensil, implement or apparatus in respect of which the alleged offence has been committed.

Before issuing such warrant, the [1] [Collector or] Magistrate shall examine the informant on oath or affirmation, and the examination shall be reduced into writing in a summary manner and be signed by the informant, and also by the [1] [Collector or] Magistrate.

Power to certain Abkari and Police officers to search houses, etc., without warrant.

31. Whenever the Commissioner, or a Collector, of any Abkāri or Police officer not below the rank of sub-inspector or a police station officer, has reason to believe that an offence under section 55 or section 57 or section 58 of this Act has been committed and that the delay occasioned by obtaining a search warrant under the preceding section will prevent the execution thereof, he may, after recording his reasons and the grounds of his belief at any time by day or night enter and search any place and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and may detain and search and, if he think proper, arrest any person found in such place whom he has reason to believe to be guilty of any offence under this Act:

Provided that every person arrested under this section shall be admitted to bail by such officer as aforesaid if sufficient bail be tendered for his appearance either before a Magistrate or before an Abkāri-inspector as the case may be.

Power to enter and inspect places of manufacture and sale.

32. The Commissioner, or a Collector, or any Abkari-officer not below the rank of sub-inspector, or any police officer duly empowered in that behalf, may enter and inspect, at any time by day or by night, any place in which any licensed manufacturer carries on the manufacture of any liquor or intoxicating drug, or draws toddy, or stores any liquor or intoxicating drug or toddy; and may enter and inspect, at any time during which the same may be open, any place in which any liquor or intoxicating drug is kept for sale by any licensed person; and may examine, test, measure, or

[1] These words were inserted by section 13 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] This word was substituted for the words "given by any Abkari or police officer or any other person" by *ibid.*

(Chapter VIII.—Powers and Duties of Officers, etc.)

weigh any materials, stills, utensils, implements, apparatus, liquor, or intoxicating drugs found in such place.

In case of resistance, entry may be made by force, etc.

33. If any officer empowered to make an entry under the provisions of the last two preceding sections cannot otherwise make such entry, it shall be lawful for him to break open any outer or inner door or window and to remove any other obstacle to his entry into any such place.

Offenders may be arrested, and contraband liquor and articles seized without warrant.

34. Any officer of the Abkāri, Salt, Police, Land-revenue or Customs Departments, and any other person duly empowered may arrest without warrant in any public thoroughfare or open place other than a dwelling house any person found committing an offence punishable under section 55 or section 57 or section 58 of this Act; and in any such thoroughfare or place may seize and detain any liquor, drug or other article which he has reason to believe to be liable to confiscation under this Act or any other such law; and may search any person, vessel, vehicle, animal, package, receptacle or covering, upon whom, or in or upon which he may have reasonable cause to suspect any such liquor, drug or other such article to be, or to be concealed:

[1] [Provided that if the officer or person making the arrest under this section be not empowered under section 5-A to admit to bail, the person arrested shall be forthwith forwarded to an officer so empowered, if there be such an officer within a distance of five miles from the place where such arrest took place.

And it shall be the duty of such officer empowered as aforesaid to admit such person to bail if sufficient bail be tendered for his appearance before an Abkāri-officer having jurisdiction to inquire into the case.]

Arrest of persons refusing to give name or giving false name.

35. Any person, who may be accused or reasonably suspected of committing an offence under this Act, and who on demand of any officer of the Abkāri, Salt, Police, Land-revenue or Customs Departments or of any other person duly empowered, refuses to give his name and residence or who gives a name or residence which such officer or person has reason to believe to be false, may be arrested by such officer or person in order that his name and residence may be ascertained.

Searches how to be made.

36. All searches under the provisions of this Act shall be made in accordance with the provisions of the Code of Criminal Procedure:

Central Act V of 1898.

[1] This proviso was added by section 3 of the Madras Abkāri (Amendment) Act, 1905 (Madras Act I of 1905).

[1][Provided that the persons called upon to attend and witness such searches shall include at least two persons neither of whom is an abkāri, police or village officer.]

Officers of certain departments bound to assist.

37. All officers of the departments of Police, Customs, Salt and Land-revenue shall be legally bound to assist any Abkāri-officer in carrying out the provisions of this Act.

Offences to be reported, etc.

38. Every officer employed [2][under the Government], other than an Abkāri-officer, shall be bound to give immediate information to an Abkāri-officer,

and every Abkāri-officer shall be bound to give immediate information either to his immediate official superior or to an Abkāri-inspector,

of all breaches of any of the provisions of this Act which may come to his knowledge; and all such officers shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which they may know or have reason to believe are about or likely to be committed.

Landholders and others to give information.

39. All zamindars, proprietors, tenants, under-tenants and cultivators who own or hold land on which there shall be any manufacture of liquor or intoxicating drugs not licensed under this Act shall in the absence of reasonable excuse be bound to give notice of the same to a Magistrate or to an officer of the Abkāri, Salt, Police, Customs or Land-revenue Departments immediately the same shall have come to their knowledge.

Persons arrested, how to be dealt with.

40. (1) When any person is arrested under the provisions of section 31 or section 34 or section 35 of this Act, the person arresting him shall, unless bail shall have been accepted under the provisions of section 31 [3][or of section 34], forthwith forward him to an Abkāri-inspector, or, if there be no such officer within a distance of ten miles from the place at which such arrest took place, to the nearest police station, with a report of the circumstances under which such arrest was made.

Procedure by police station officer.

(2) On any such person being brought to a police station as aforesaid, the officer-in-charge thereof shall either admit him to bail to appear when summoned before the Abkāri-officer as aforesaid within the limits of whose

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[1] This proviso was added by section 3 of the Madras Abkāri (Amendment)' Act, 1929 (Madras Act XVIII of 1929).

[2] The words "under the Crown" were substituted for the words "by Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[3] These words and figures were inserted by section 4 of the Madras Abkāri (Amendment) Act, 1905 (Madras Act I of 1905).

jurisdiction the offence with which he is charged is suspected have been committed, or, in default of bail, shall forward him in custody to such officer.

Procedure by Abkāri-officer empowered to inquire.

(3) On any such person being brought in custody before such Abkāri-officer as aforesaid or appearing before him on bail [1][or when such Abkāri-officer as aforesaid has himself made the arrest] such officer shall hold such inquiry as he may think necessary and shall either release such person, or forward him in custody to, or admit him to bail to appear before the Magistrate having jurisdiction to try the case.

[2][Provided that if such inquiry is not commenced and completed on the day on which such person is arrested by or is brought or appears before such Abkāri-officer, the said officer shall, if sufficient bail be tendered for the appearance of the person arrested, admit the said person to bail to appear on any subsequent day before himself or any other Abkāri-officer having jurisdiction to inquire into the case.]

Persons arrested to be admitted to bail.

41. It shall be the duty of any officer arresting any person under the powers given by section 31 of this Act, and of any police station officer or Abkāri-officer before whom a person arrested is brought or appears under the provisions of section 40 to release such person on bail if sufficient bail be tendered for his appearance before an Abkāri-inspector or before a Magistrate as the case may be.

Bond of accused and sureties.

42. Before any person is released on bail, a bond in such sufficient but not excessive sum of money as the officer admitting him to bail thinks proper shall be executed by such person and by one or more sureties, conditioned that such person shall attend in accordance with the terms of the bond and shall continue to attend until otherwise directed by the Abkāri-inspector before whom he was bailed to attend, or by the Magistrate, as the case may be :

Provided that the officer admitting any such person to bail may at his discretion dispense with the requirement of a surety or sureties to the bond executed by such person.

The [3][State Government] shall from time to time determine the form of the bond to be used in any local area.

Procedure in case of default of person admitted to bail to appear before Abkāri-inspector.

43. When by reason of default of appearance of a person bailed to appear before an Abkāri-inspector such officer is of opinion that proceedings should be had to compel payment of the penalty or penalties mentioned in the bond of the person bailed or of the surety or sureties, he shall forward the bond

[1] These words and figures were inserted by section 4 of the Madras Abkāri (Amendment) Act, 1905 (Madras Act I of 1905).

[2] This proviso was added by section 5 *ibid.*

[3] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

to the Magistrate having jurisdiction to try the offence of which the person bailed was accused, and the Magistrate shall proceed to compel payment of the penalty or penalties in the manner provided by the Code of Criminal Procedure for the recovery of penalties in the like case of default of appearance by a person bailed to appear before his own court. Central Act V of 1898.

Abkāri-officers may summon witnesses.

44. Any Abkāri-officer holding an inquiry in the manner provided in section 40 may summon any person to appear before himself to give evidence on such inquiry or to produce any document relevant thereto which may be in his possession or under his control :

Provided that no such Abkāri-officer shall summon any person to appear at a greater distance from the usual place of residence of such person than the [1] [State Government] may from time to time by rule direct.

Terms of summons.

45. Every summons issued under the last preceding section shall state whether the person summoned is required to give evidence or to produce a document, or both, and shall require him to appear before the said officer at a stated time and place.

Examination of witnesses by Abkāri-inspectors.

46. Persons so summoned shall attend as required and shall answer all questions relating to such inquiry put to them by such officer. Such answers shall be reduced into writing and shall be signed by such officer.

When attendance of witnesses to be dispensed with, and procedure in such cases.

47. It shall be lawful for an Abkāri-inspector, instead of summoning to appear before him any person who, from sickness or other infirmity, may be unable so to do, or whom by reason of rank or sex it may not be proper to summon, to proceed to the residence of such person and there to require him to answer such questions as he may consider necessary with respect to such inquiry ; and such person shall be bound so to answer accordingly, and the provisions of section 46 shall apply to such answers.

Abkari-inspector may summon persons suspected of offences against Abkāri laws.

48. Any Abkāri-inspector may, after recording his reasons in writing, summon any person to appear before him whom he has good reason to suspect of having committed an offence under this Act. On such person appearing before such officer, the procedure prescribed by sections 40 to 47 inclusive of the Act shall become applicable.

[2] [The officer may also, if he considers it necessary for the investigation of the case, exercise the powers conferred by sections 44 to 47 before summoning the person suspected.]

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] This paragraph was added by section 14 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

(Chapter VIII.—Powers and Duties of Officers, etc.)

Law relating to criminal courts as to summoning of witnesses to apply.

49. The law for the time being in force as to summonses and compelling the attendance of persons summoned in criminal courts shall, so far as the same may be applicable, apply to any summons issued by an Abkāri-inspector and to any person summoned by him to appear under the provisions of this Act.

Report of Abkari-inspector gives jurisdiction to a competent Magistrate.

50. When an Abkāri-inspector forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to try the case, or admits any such person to bail to appear before such Magistrate, such officer shall also forward to such Magistrate a report setting forth the name of the accused person and the nature of the offence with which he is charged and the names of the persons who appear to be acquainted with the circumstances of the case, and shall send to such Magistrate any article which it may be necessary to produce before him. Upon receipt of such report the Magistrate shall inquire into such offence and try the person accused thereof in like manner as if complaint had been made before him as prescribed in the Code of Criminal Procedure.

Central Act V of 1898.

Powers of Abkāri-inspector to cause attendance of witnesses before Magistrate.

Central Act V of 1898.

51. When an Abkāri-inspector forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to try the case, or admits him to bail to appear before such Magistrate, such officer shall exercise all the powers conferred by the Code of Criminal Procedure on an officer in charge of a police station in respect to causing the appearance before such Magistrate of such persons acquainted with the facts and circumstances of the case as he considers it necessary that such Magistrate shall examine as witnesses for the prosecution of such case.

Procedure after arrest.

[1] [**52.** Any person arrested for an offence under this Act shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate; and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.]

Police to take charge of articles seized.

53. All officers in charge of police stations shall take charge of and keep in safe custody pending the orders of a Magistrate or of an Abkāri-inspector, all articles seized under this Act which may be delivered to them; and shall allow any Abkāri-officer who may accompany such articles to the police station, or who may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take

[1] This section was substituted for the original section 52 by the Adaptation (Amendment) Order of 1950.

samples of and from them. All samples so taken shall also be sealed with the seal of the officer in charge of the police station.

Closing of shop for the sake of public peace.

54. It shall be lawful for the Magistrate of the district or, in the town of Madras, for the Commissioner of Police by notice in writing to the licensee to require that any shop in which liquor or any intoxicating drug is sold shall be closed at such times or for such period as he may think necessary for the preservation of the public peace.

If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, it shall be lawful for any Magistrate, or for any police officer who is present, to require such shop to be kept closed for such period as may be necessary.

CHAPTER IX.

PENALTIES.

For illegal import, etc.

55. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any licence or permit obtained under this Act,

(*a*) imports, exports, transports or possesses liquor or any intoxicating drug ; or

(*b*) manufactures liquor or any intoxicating drug ; or

(*c*) cultivates the hemp plant (*Cannabis sativa* [1][ ]) [2][[3]* * * or collects any portion of such [4](plant) from which an intoxicating drug can be manufactured ; or]

(*d*) taps any toddy-producing tree ; or

(*e*) draws toddy from any tree ; or

(*f*) constructs or works any distillery or brewery ; or

(*g*) uses, keeps, or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor other than toddy or any intoxicating drug ; or

[5] [(*h*) bottles any liquor for purposes of sale ; or]

[5] [(*i*)] sells liquor or any intoxicating drug

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[1] The words " or *Indica* " were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930).

[2] The words " the coco plant (*Erythroxylon coca*) ; or collects any portion of such plants from which an intoxicating drug can be manufactured ; or " were added by section 15 (1) of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[3] The words " the coca plant (*Erythroxylon coca*) " were omitted by Schedule II to the Dangerous Drugs Act, 1930 (Central Act II of 1930).

[4] This word was substituted for the word " plants " by *ibid.*

[5] This clause was inserted and the original clause (*h*) was relettered as (*i*) by section 15 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for rendering or attempting to render denatured spirit fit for human consumption.

[1] [**55-A.** Whoever renders or attempts to render fit for human consumption any spirit, whether manufactured in [2] [India] or not, which has been denatured, or has in his possession any spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall on conviction before a Magistrate be liable to imprisonment for a term which may extend to three months, or to fine which may extend to one thousand rupees or both. For the purpose of this section it shall be presumed unless and until the contrary is proved that any spirit which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants is or contains or has been derived from denatured spirit.]

For misconduct by licensee, etc.

56. Whoever, being the holder of a licence or permit granted under this Act, [3] [or being in the employ of such holder and acting on his behalf]—

(*a*) fails to produce such licence or permit on the demand of any Abkāri officer or of any other officer duly empowered to make such demand ; or

(*b*) [4] [wilfully does or omits to do anything] in breach of any of the conditions of his licence or permit not otherwise provided for in this Act ; or

(*c*) wilfully contravenes any rule made under section 29 of this Act ; or

(*d*) permits drunkenness, riot, or gaming in any place in which any liquor or intoxicating drug is sold or manufactured ; or

(*e*) permits persons of notoriously bad character to meet or remain in any such place,

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment which may extend to three months, or with both.

For adulteration, etc., by licensed vendor or manufacturer.

57. Whoever, being the holder of a licence for the sale or manufacture of liquor or of any intoxicating drug under this Act,

(*a*) mixes or permits to be mixed with the liquor or intoxicating drug sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or

[1] This section was substituted for the original section by section 3 of the Madras Abkāri (Amendment) Act, 1915 (Madras Act I of 1915).

[2] This word was substituted for the words "British India" by the Adaptation (Amendment) Order of 1950.

[3] These words were inserted by section 17 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

[4] These words were substituted for the words "does any act" by *ibid.*

apparent intoxicating quality or strength, or any article prohibited by any rule made under section 29, clause (*k*), when such admixture shall not amount to the offence of adulteration under section 272 of the Indian Penal Code ; or

(*b*) sells or keeps or exposes for sale as foreign liquor, liquor which he knows or has reason to believe to be country liquor ; or Central Act XLV of 1860.

(*c*) marks the cork of any bottle or any bottle, case, package or other receptacle containing country liquor or uses any bottle, case, package or other receptacle containing country liquor, with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of using a false trade-mark with intent to deceive or injure any person under section 482 of the Indian Penal Code ; or

(*d*) sells or keeps or exposes for sale any country liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such acts shall not amount to the offence of selling goods marked with a counterfeit trade mark under section 486 of the Indian Penal Code, Central Act XLV of 1860. Central Act XLV of 1860.

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to five hundred rupees or with imprisonment for a term which may extend to three months or with both.

For possession of illicit liquor.

58. Whoever without lawful authority has in his possession any quantity of liquor or of any intoxicating drug knowing the same to have been unlawfully imported, transported or manufactured, or knowing the prescribed duty not to have been paid therefor, shall, on conviction before a Magistrate, be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

For vexatious search or arrest.

59. Any Abkāri-officer or other person who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any closed place ;

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act ;

or vexatiously and unnecessarily detains, searches, or arrests any person ;

or in any other way vexatiously exceeds his lawful powers, shall on conviction before a Magistrate be punished for each such offence with fine which may extend to five hundred rupees or with imprisonment for a term which may extend to six months, or with both.

(*Chapter IX.—Penalties.*)

For vexatious delay.

60. Any officer or person exercising powers under this Act who vexatiously and unnecessarily delays forwarding to an Abkāri-inspector or to the officer in charge of the nearest police station as required by section 40 of this Act, any person arrested or any article seized under this Act, shall on conviction before a Magistrate be punished with fine which may extend to two hundred rupees.

For abetment of escape of persons arrested, etc.

61. Any officer or person who unlawfully releases or abets the escape of any person arrested under this Act, or abets the commission of any offence against this Act, or

acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act, may be evaded or broken, or the abkari-revenue may be defrauded,

and any officer of any other department referred to in section 37 who abets the commission of any offence against this Act in any place,

shall, on conviction before a Magistrate for every such offence, be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

[1] [**62.** *Omitted.*]

For offences not otherwise provided for.

63. Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act, or of any rule or order made under this Act, and not otherwise provided for in this Act, shall, on conviction before a Magistrate, be punished for each such wilful act or omission with fine which may extend to two hundred rupees.

Presumption as to commission of offence in certain cases.

64. In prosecutions under section 55 it shall be presumed until the contrary is proved, that the accused person has committed an offence under that section in respect of any liquor or intoxicating drug, or any still, utensil, implement, or apparatus whatsoever for the manufacture of liquor other than toddy or of any intoxicating drug, or any such materials as are ordinarily used in the manufacture of liquor or of any intoxicating drug, for the possession of which he is unable to account satisfactorily ;

and the holder of a licence or permit under this Act shall be punishable, as well as the actual offender, for any offence committed by any person in his employ and acting on his behalf under section 55 or section 56 or section 57 or section 58 as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence :

[1] This section was omitted by section 18 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

(*Chapter IX.—Penalties.*)

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

What things liable to confiscation.

65. In any case in which an offence has been committed under this Act, the liquor, drug, materials, still, utensil, implement, or apparatus in respect [1][or by means,] of which an offence has been committed shall be liable to confiscation.

Any liquor or intoxicating drug lawfully imported, exported, transported, manufactured, had in possession or sold or toddy lawfully drawn or tapped along with, or in addition to, any liquor, intoxicating drug or toddy, liable to confiscation under this section, and

the receptacles, packages and coverings in which any such liquor, intoxicating drug, materials, still, utensil, implement, or apparatus as aforesaid is or are found, and the other contents, if any, of the receptacles or packages in which the same is or are found, and the animals, carts, vessels, or other conveyances used in carrying the same.

shall likewise be liable to confiscation,

Confiscation how ordered.

66. When the offender is convicted or when the person charged with an offence under this Act is acquitted, but the Magistrate decides that anything is liable to confiscation, such confiscation may be ordered by the magistrate.

Whenever confiscation is authorized by this Act, the magistrate ordering it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the officer thinks fit.

When an offence under this Act has been committed, but the offender is not known or cannot be found, or when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Commissioner, or by any other officer authorized by the [2][State Government] in that behalf, who may order such confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and evidence, if any, which they produce in support of their claims :

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[1] These words were inserted by section 19 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(*Chapter IX.—Penalties. Chapter X.—Miscellaneous.*)

[1] [Provided further that if the thing in question is liable to speedy and natural decay or if the Commissioner or any other officer authorized by the [2] [State Government] in that behalf is of opinion that the sale would be for the benefit of its owner, he may at any time direct it to be sold, and the provisions of this section shall, as nearly as may be practicable, apply to the net proceeds of such sale.]

Power to compound offences.

67. Any Abkāri-officer specially empowered in that behalf may accept from any person whose licence or permit is liable to be cancelled or suspended under clauses (*a*) and (*b*) of section 26 or who is reasonably suspected of having committed an offence under [3] [section 55, 56, 57, 58 or 63,] a sum of money not exceeding two hundred rupees in lieu of such cancelment or suspension or by way of compensation for the offence which may have been committed, as the case may be; and in all cases whatsoever in which any property has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by such officer.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken against such person or property.

Provisions of the Criminal Procedure and Indian Penal Codes applicable to offences committed under this Act.

68. The provisions of the Criminal Procedure Code relating to execution so far as the same are applicable, and sections 67, 68 and 69 of the Indian Penal Code shall apply to all offences committed and to all persons punished under the provisions of this Act.

Central Act V of 1898.

Central Act XLV of 1860.

CHAPTER X.

MISCELLANEOUS.

Publication of rules and notifications.

69. All rules made and notifications issued under this Act shall be made and issued by publication in the [2] [Official Gazette], provided that all such rules and notifications whereby the doing or the not doing of anything is made punishable, shall be published in three successive issues of the [4] [Official

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[1] This proviso was added by section 20 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] These words and figures were substituted for the words and figures "section 56 or section 63" by section 21 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

[4] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

Gazette] and for at least two months in the Official Gazettes of the districts to which, or to parts of or to places in which, it may be determined that they shall apply. All such rules and notifications shall thereupon have the force of law and be read as part of this Act and may in like manner be varied, suspended or annulled.

The conferring of powers and making of appointments.

70. All notifications and orders conferring powers, imposing duties and making appointments under this Act, may respectively refer to the persons concerned specially by name or in virtue of their office or to classes of officials generally by their official titles; and all courts shall take judicial notice thereof.

Exception of medicated articles.

[1] [**71.** The [2] [State Government] may by notification either wholly or partially, subject to such conditions as [3] [they] may think fit to prescribe, exempt any liquor or intoxicating drug from all or any of the provisions of this Act, either [4] [generally] or in any specified area, or for any specified period or occasion or as regards any specified person or class of persons.]

Bar of actions.

72. No action shall lie against the [5] [Government], or against any Abkāri-officer, for damages in any civil court for any act *bona fide* done or ordered to be done in pursuance of this Act, or of any law for the time being in force relating to abkari revenue;

and all prosecutions of any Abkāri-officer, and all actions which may be lawfully brought against the [5] [Government] or against any Abkāri-officer, in respect of anything done, or alleged to have been done, in pursuance of this Act, shall be instituted within six months from the date of the act complained of and not afterwards.

In such action if for damages, it shall be lawful for the court, if tender of sufficient amends shall have been made before the action was brought, in awarding the amount so tendered to refuse costs to the plaintiff and direct him to pay the costs of the defendant.

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[1] This section was substituted by section 22 of the Madras Abkāri (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This word was substituted for the word "he" by the Adaptation Order of 1937.

[4] This word was substituted for the words "throughout the Presidency" by *ibid.*

[5] The word "Crown" was substituted for the words "Secretary of State for India in Council" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

(*Schedule*)

SCHEDULE.

(*See* SECTION 2.)

Enactment.	*Subject.*	*Extent of repeal.*
Act XIX of 1852.	For better securing the abkari revenue of the town and suburbs of Madras.	The whole so far as it has not already been repealed.
Act III of 1856.	An Act to amend Act XIX of 1852.	The whole.
[1]Act XVI of 1863.	The Excise (Spirits) Act, 1863.	So much as has not been repealed.
[2][* * * *]		
[2][* * * *]		
[1] Act VIII of 1894.	The Indian Tariff Act, 1894.	Section 6.

MADRAS ACT No. IV OF 1886.[3]

[THE RAILWAY PROTECTION ACT, 1886.]

[*9th April 1886* ; *31st June 1886*.]

An Act to provide for the prevention of injury to Railways from the escape or overflow of water from irrigation-works situated upon the lands of zamindars or other landholders.

WHEREAS it is expedient to provide for the prevention of injury to lines of railway from the escape and overflow of water from rivers, tanks, channels or irrigation-works situated upon the lands of landholders; It is hereby enacted as follows :— Preamble.

1. This Act may be called the Railway Protection Act, 1886. Short title.

[4] [It extends to the whole of the State of Madras.] Local extent.

2. In this Act—

the term "landholders" shall be taken to include all persons holding under a sanad-i-milkiyat-i-istimrar, all other "Landholders."

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[1] These items were inserted by section 23 of the Madras Abkari (Amendment) Act, 1913 (Madras Act I of 1913).

[2] The entries relating to Madras Acts III of 1864 and V of 1879 have been omitted as these Acts have been repealed.

[3] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 9th October 1885, p. 3 ; for Report of the Select Committee, *see ibid*, dated 23rd December 1885, p. 1 ; for Proceedings in Council, *see ibid*, dated 21st August 1885, p. 11 ; *ibid*, dated 23rd October 1885, p. 19 and *ibid*, dated 7th April 1886, p. 2.

The Act came into force on 1st September 1886—*see Fort St. George Gazette*, 1886, Part I, p. 692.

[4] These words were substituted for the words " It extends to the territories administered by the Governor in Council of *Fort St. George* " by section 3 of, and the Second Schedule to, the Repealing and Amending Act, 1950 (Central Act XXXV of 1950).

zamindars, shrotriemdars, jagirdars, inamdars and all persons farming the land-revenue under Government, but shall not include holders of lands under raiyatwari settlement :

"Railway." "railway" means a railway for the public conveyance of passengers or goods :

it includes—

(*a*) all land within the fences or other boundary marks prescribed under section 52, Act IV of 1879[1] (India) ;

(*b*) all lines of rail, sidings or branches worked over for the purposes of, or in connection with, a railway ;

(*c*) all stations, offices, warehouses, fixed machinery and other works constructed for the purposes of, or in connection with, a railway ;

"irrigation-works." "irrigation-works" means and includes tanks, river-channels, embankments, sluices, weirs, revetments and other works of a like description situated upon the lands of land-holders.

[2][ ].

Collector of the district may inspect irrigation-works.

3. The Collector of the district or any officer appointed by him on that behalf may at any time enter upon the lands of any landholder and inspect, or cause to be inspected, any irrigation-works which shall be so situated within such lands that any railway may appear liable to be injured from the escape or overflow of water therefrom.

When Collector considers measures should be taken to protect a railway he shall cause plans and estimates of the necessary measures to be prepared.

4. Whenever it shall appear necessary to the Collector that measures should be taken in respect of any irrigation-work for the protection of any railway, he shall cause to be prepared plans and estimates specifying the measures which, having regard to the safety of the railway and the interests of the landholders, tenants and other persons concerned, he may think necessary, and he shall also record a statement showing with reasons how far, in his opinion, the landholder in possession of, or having control over, the said works is liable to contribute towards the expenses to be incurred in carrying out the said measures. Such statement shall contain—

(1) a description of the works upon which the measures are to be executed ;

(2) the name of any landholder who, to the best of the Collector's information and belief, is in possession of, or has control over, such works ;

(3) the proportion, if any, of the estimated expenditure which is to be borne by the landholder.

The Collector shall cause copies of a vernacular translation of such statement to be fixed in some conspicuous place or places in the village or villages to which the said works belong.

[1] *See* now the Indian Railways Act, 1890 (Central Act IX of 1890).

[2] The definition of "Safety Controlling Authority" was omitted byt he Adaptation (Amendment) Order of 1950.

Collector to send the plans and estimates to the landholder concerned, with an order to him to take the measures specified or to show cause why he should not do so.

5. The Collector shall, upon the completion of the plans, estimates and statement mentioned in the last preceding section, send copies thereof to the landholder named in the statement as being in possession of, or having control over, the irrigation-works described therein, together with an order in writing requiring the landholder so named as aforesaid within a reasonable time fixed in the notice to carry out the measures specified in the said plans and estimates, or to appear before the Collector and show cause why he should not carry out the same.

Collector may cancel or modify the order.

6. If the landholder appears before the Collector and satisfies him, after such inquiry as he thinks fit, that he is not the landholder in possession of, or having control over, the works named in the statement, or that other measures than those proposed may, with due regard to the safety of the railway, be adopted for the protection thereof, or that he ought not to bear the whole or any part of the cost which he has been called upon to bear for the purpose of carrying out the proposed measures, the Collector shall cancel or modify the order accordingly.

If the order is not cancelled, Collector to call upon the landholder by notice to execute the measures.

7. If the order is not cancelled by the Collector, he shall by a written notice call upon the landholder so named as aforesaid to carry out, within a reasonable time to be named in the notice, the measures specified in the order as originally issued or modified, as the case may be. The notice shall contain a copy of such order.

Tenants and others interested may make representation to the Collector as to the nature of proposed measures.

8. Pending such an inquiry by the Collector or at any time within thirty days of the date when the copy of the notice is fixed as aforesaid, it shall be lawful for the tenants or other persons concerned to appear before the Collector and make such representations as they may think fit with regard to the nature of the proposed measures.

If landholder fails to execute the measures, the Collector shall report the matter to the Central Government which may direct the execution of measures.

9. In the event of the measures specified in the order mentioned in section 7 not being carried out within the time fixed, the Collector shall report the matter for the orders of the [1][Central Government], [2][which] may direct that the proposed measures be carried out, or pass such other orders as [3][it] may deem fit. A copy of the order of the

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[1] The words "Safety Controlling Authority" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and for the words so substituted the words "Central Government" were substituted by the Adaptation (Amendment) Order of 1950.

[2] This word was substituted for th word "who" by the Adaptation Order of 1937.

[3] This word was substituted for the word "he" by *ibid.*

[1] [Central Government] shall be sent to the landholder, and shall be published in the Gazette of the district or districts concerned.

After execution of measures, notice to be served on landholder to pay cost of measures.

10. After the execution of the said measures, the Collector shall cause to be served upon the landholder a memorandum showing the total cost incurred in the execution of the same and the sum which, in the opinion of the Collector, the landholder is liable to pay together with a notice requiring him to pay the same within a time to be fixed in such notice.

Procedure in case of emergency.

11. In cases in which, in the opinion of the Collector of any district in which any irrigation-work may be situated, the immediate execution of any measures in respect of such work is necessary for preventing serious danger to life or property, or serious obstruction to public traffic upon any railway, he may order the execution of such measures, and shall without unnecessary delay record a statement showing the grounds of his opinion and the material facts of the case. A copy of the statement shall be served upon the landholder who, according to the Collector's information, is in possession of, or has control over, such work, together with a memorandum showing the nature of the measures executed, the total cost thereof, and the sum which, in the opinion of the Collector the said landholder is liable to pay, and with a notice calling upon him, within a reasonable time to be fixed therein, to pay the same, or to appear before the Collector and show cause why he should not pay the same.

Collector to decide what sum the landholder is liable to pay.

12. If the landholder appears before the Collector and shows cause under section 11, the Collector shall, after such inquiry as he may deem fit, decide what sum, if any, the landholder is liable to pay, and shall cause a notice to be served upon him calling upon him to pay the same within a time to be fixed therein.

Collector may appoint assessors in inquiry regarding landholders' liability.

13. In the inquiry held by the Collector under section 6 or section 12, the Collector may, on the application of the landholder, appoint, for the purpose of ascertaining the liability of the landholder and the extent thereof, not more than five assessors, of whom not less than half shall be nominated by the Collector and the remainder by the landholder ;

may summon such assessors to attend at such place and time as the Collector thinks fit ; and

may fix a time within which they are to submit their opinion.

If landholder neglects or refuses to pay, Collector may file a suit.

14. If any landholder, upon whom a notice shall have been served under section 10, section 11 or section 12, shall neglect or refuse to pay the sum mentioned therein in whole or in part,

[1] The words "Safety Controlling Authority" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and for the words so substituted the words "Central Government" were substituted by the Adaptation (Amendment) Order of 1950.

the Collector may file a suit in the Civil Court for the recovery of the said sum or such part thereof as may remain unpaid.

Court to try the case as provided by the Civil Procedure Code.

15. The Court shall thereupon proceed to try the suit and pass a decree in the manner provided by the Code of Civil Procedure [1] for the hearing of suits :

Central Act XIV of 1882.

Provided that the said landholder shall not in any such suit be held liable in an amount exceeding that which he, in the exercise of due and proper care as a landholder, would have expended on the maintenance of the works mentioned in the order made as aforesaid.

Compensation to landholder for loss or damage caused by protective measures.

16. Any landholder or other person shall be entitled to reasonable compensation for any loss or damage occasioned to him by, or in the course of the execution of, any of the measures taken under section 5 or section 7 or section 9 or section 11. The amount of such compensation shall be fixed by the Collector after such inquiry as he may deem fit.

Collector may appoint assessors in inquiry regarding compensation.

17. For the purposes of this inquiry the Collector may, on the application of the claimant, appoint not more than five assessors, of whom not less than half shall be nominated by the Collector and the remainder by the claimant ;

may summon such assessors to attend at such place and time as the Collector thinks fit ; and

may fix a time within which they are to submit their opinion.

If landholder is dissatisfied with the compensation awarded, he may file a suit.

18. In the event of the Collector and the said landholder or other person being unable to agree as to the amount of such compensation, it shall be lawful for the said landholder or other person to file a suit in the Civil Court for the recovery of such compensation.

Notice how to be served.

19. Every notice given under the provisions of this Act shall, if practicable, be served personally on the person to whom it is addressed ; or, if he cannot be found, the notice may be left at his usual or last known place of abode with some adult member of his family, servant or agent, or may be sent by a registered letter, or may be put upon some conspicuous part of his usual or last known place of abode, and shall thereby be deemed to have been duly presented or served.

Central Government may authorize revenue-officer to exercise powers of Collector.

20. The [2][Central Government] may, by notification published in the [3][State Official Gazette], and in the Gazettte of the district or districts concerned, from time to time, authorized any revenue-officer not below the rank of Deputy Collector to

[1] *See now* the Code of Civil Procedure, 1908 (Central Act V of 1908).

[2] The words " Safety Controlling authority " were substituted for the words " Governor-in-Council " by the Adaptation Order of 1937 and for the words so substituted the words " Central Government " were substituted by the Adaptation (Amendment) Order of 1950.

[3] The words " *Provincial Official Gazette* " were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950

exercise any of the powers of a Collector under this Act, and may in like manner at any time withdraw or modify such authority.

MADRAS ACT No. I OF 1888. [1]

[THE [2](MADRAS) LOCAL AUTHORITIES' LOAN ACT, 1888.]

[26*th January* 1888 ; 20*th April* 1888.]

An Act to empower Local Authorities to guarantee interest on, or to create a Fund for Repayment of, Capital expended on certain purposes.

Preamble. WHEREAS it is expedient to empower local authorities to charge their funds with the payment of interest on Capital applied to the carrying out of works to the execution of which the funds of the local authority can legally be applied ; It is hereby enacted as follows :—

Short title and extent. **1.** This Act shall be called the [2][Madras] Local Authorities' Loan Act, 1888. It extends to the whole of the Madras Presidency [3] * * * * * * * * *

Local authority. **2.** In this Act "local authority" means any district or municipal board constituted under the provisions of Acts IV [4] and V [4] of 1884 (Madras) or other such law for the time being in force ; and

Funds. "funds," used with reference to any local authority, means any district or municipal fund to the control or management of which such authority is entitled, and any rates, taxes or tolls leviable by, and any property vested in, such authority.

Power of local authority to guarantee payment of interest on, or to create a fund for re-payment of, capital expended on any work to which the funds may be applied. **3.** The [5] [State Government] [6] [* * * * * * * *], may authorize any local authority, either severally or in conjunction with any other local authority, to charge its funds or any part thereof by way of guarantee for the payment of interest on, or by the creation of a fund for the re-payment of, moneys expended or to be expended on any work or for any of the purposes to which such funds might be by law applied.

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 15th November 1887, p. 1 ; for the Report of the Select Committee, *see ibid*, dated 3rd January 1888, p. 1 ; for Proceedings in Council, *see ibid*, dated 29th November 1887, p. 4 ; and *ibid*, dated 24th January 1888, p. 1.

[2] This word was inserted by section 3 (1) of, and the Second Schedule to, the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

[3] The words " and shall come into force upon the passing thereof," were repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901) —Third Schedule, Part III.

[4] *See now* Madras Acts V and XIV of 1920.

[5] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[6] The words " with the previous sanction of the Governor-General in Council " were omitted by the Devolution Act, 1920 (Central Act XXXVIII of 1920—First Schedule, Part III).

Remedy by attachment if engagements not fulfilled.

4. In the event of default being made by a local authority in the fulfilment of engagements entered into under the last preceding section, the [1] [State Government] may, on the application of a person entitled under such engagements, attach the funds made subject to charge on account thereof. After such attachment, no person, except an officer appointed in this behalf by the [1] [State Government], shall in any way deal with the attached funds ; but such officer may do all acts in respect thereof which the local authority might have done if such attachment had not taken place, and may apply the proceeds to the discharge of the liabilities incurred and in payment of all costs due in respect thereof, and of all expenses caused by the attachment and subsequent proceedings consequent thereon :

Attachment not to defeat prior charges legally made.

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with law ; but all such prior charges shall be paid out of the proceeds of the funds before any part of the proceeds is applied to the satisfaction of a liability incurred under this Act.

Power of Govenmen to make rules.

5. The [1] [State Government] may, from time to time, make rules consistent with this Act as to—

(1) the nature of the funds on the security of which interest may be guaranteed ;

(2) the works for the carrying out of which the payment of interest may be guaranteed ;

(3) the manner of making application for sanction to give such guarantee ;

(4) the inquiries to be made in relation to such applications and the manner of conducting such inquiries ;

(5) the inspection of any works carried out under any contract in respect of which the payment of interest is guaranteed under this Act ;

(6) the accounts to be kept by the person or corporate body with whom such contract is made and for the inspection of the same ;

(7) attachment of the funds and the manner of collecting or disposing of them ;

and as to all other matters incidental to carrying this Act into effect.

All such rules shall be published in the [2] [Official Gazette].

Cancellation or alteration of rules.

The [1] [State Government] may, in like manner, from time to time, cancel or alter such rules.

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[1] The words "Provincial Government" were substituted for the words "Governor-in-Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

MADRAS ACT No. II OF 1888.[1]

[THE [2](MADRAS) PLACES OF PUBLIC RESORT ACT, 1888.]

[12*th April* 1888 ; 31*st May* 1888.]

An Act to provide for the Inspection and Licensing of Places of Public Resort and Entertainment.

Preamble. WHEREAS it is expedient to provide for the inspection of places of public resort and entertainment, and for the licensing of the same by competent authority ; It is hereby enacted as follows :—

Short title. **1.** (1) This Act may be called the [2][Madras] " Places of Public Resort Act, 1888."

[3][. . .]

Local extent. [4](3) It extends to all towns in the Madras Presidency which have been or may hereafter be declared to be municipalities under Madras Act IV of 1884 [5] or other Act of the same nature for the time being in force, and the [6][State Government] may, from time to time, by notification in the [7][Official Gazette] extend it permanently or for a time or for specified occasions only, from such date as may be specified in the notification, to any other local area in the Presidency of Fort St. George outside the limits of the Municipality of Madras, and may cancel or modify any such notification.

Saving. (4) Nothing in this Act shall apply to any church, temple, mosque, or other place of public worship.

Definitions. **2.** In this Act, unless there is something repugnant in the subject or context,—

" Chairman of a Municipal Council " means the Chairman of a Municipal Council appointed under Madras Act IV of 1884,[5] or other Act relating to District Municipalities in the Presidency of Fort St. George for the time being in force.

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 8th November 1887, p. 19 ; for Report of the Select Committee, *see ibid*, dated 31st January 1888, p. 1 ; for Proceedings in Council, *see ibid*, dated 29th November 1887, p. 5; and *ibid*, dated 27th March 1888, p. 11.

[2] This word was inserted by section 3 (1) of, and the Second Schedule to, the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

[3] Sub-section (2) was repealed by Part III of the Third Schedule to the Repealing and Amending Act, 1901 (Central Act XI of 1901).

[4] For notifications under this sub-section, *see* the List of Local Rules and Orders.

[5] *See now* Madras Act V of 1920.

[6] The words " Provincial Government " were substituted for the words " Governor-in-Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[7] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

"Magistrate" means a Magistrate appointed under the Code of Criminal Procedure. [1]

"Building" includes any house, hut, shed or roofed enclosure.

Licenses for use of enclosed place or building for public resort or entertainment.

[2][3. In any area in which this Act is in force, no enclosed place or building, whether permanent or temporary, shall be used for public resort or entertainment in the following cases, unless a license has been obtained in respect thereof under this Act :—

(*a*) In every case where the area within the enclosed place or occupied by the building is five hundred square feet or more ;

(*b*) In case the area aforesaid is less than five hundred square feet, if the place or building is situated within the jurisdiction of a municipal council or of a panchayat classified by the [3] (State) Government as a major panchayat, and the public are allowed to take part in any game or competition therein.]

Application for license : what it must contain.

4. When any person desires to obtain a license to use any enclosed place or building for public resort or entertainment, or to construct any enclosure or building for such purpose, he shall send an application to the authority named in section 5, setting forth the name of the owner of the place or building, its situation, size and description, the material of which the enclosure or building is made or proposed to be made, whether it is or is proposed to be permanent or temporary, and the purpose for which it is proposed to be used.

Authority to whom application should be made.

5. Such application shall be made to the Chairman of the Municipal Council, if the enclosed place or building is within a municipal town, and in every other case to any Magistrate having jurisdiction over the local area in which the place or building is situated.

The authority shall inspect and may require addition or alteration to place or building.

6. Upon the receipt of any such application, the authority to whom application is made shall inspect the place or building in respect of which a license is required, and may call on the applicant, by notice in writing, to make any alteration or addition in the material or arrangement of the enclosure or building, or in the precautions for the safety of the public to be assembled therein, and may refuse to grant a license until the alteration or addition is made.

When authority to grant license.

7. If the authority is satisfied—

(*a*) that the enclosed place or building may safely be used for the purpose of public resort or entertainment proposed ;

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[1] *See now* Central Act V of 1898.

[2] This section was substituted for the original by section 2 of the Places of Public Resort (Amendment) Act, 1949 (Madras Act XXXVIII of 1949).

[3] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

(*b*) that no objection, arising from its situation, ownership, or the purpose proposed, exists,

he shall give to the applicant a written license, signed by him, specifying the enclosure or building and the purpose for which it is to be used. Such license shall be in such form and subject to such fee and conditions as the [1][State Government] may from time to time by rule direct.

If the authority is not satisfied as aforesaid, he may refuse to grant a license, recording his reasons for refusal in writing.

License to state period for which it is to be in force.

8. Every license granted under this Act shall state the period for which it is to continue in force, and shall cease to be in force on the expiration of that period.

Revocation or suspension of license.

9. Any authority granting a license under this Act may, for reasons recorded in writing, revoke or suspend the same when he has reason to believe—

(*a*) that the license has been fraudulently obtained ;

(*b*) that the enclosed place or building has been used for other purposes of public resort or entertainment than that for which the license was granted ;

(*c*) that the place or building can no longer be safely used for the purpose for which the license was granted.

Appeal against order under section 6, 7 or 9.

10. (1) Any applicant for a license under this Act may appeal from any order made under section 6, 7 or 9 unless such order has been made by the Magistrate of the district.

(2) The appeal shall be made within thirty days from the day on which the applicant received the order appealed against.

(3) In a municipal town the appeal shall lie to the Municipal Council, and in every other local area to the Subdivisional Magistrate, or if the original order was made by a Subdivisional Magistrate, to the Magistrate of the district.

(4) The appellate authority shall have the same power to inspect and to require alteration or addition in the enclosed place or building as the authority to whom application is made under section 5, and may either grant or withhold the license or make such other order as it thinks fit.

Power to enter place of public resort to inspect license or to prevent further use.

11. It shall be lawful for any Magistrate or officer of Police in charge of a station or of higher rank than head constable to enter at any time any enclosure or building for which license is required under this Act, to inspect the license if any has been issued, and, if there is no license or if the conditions of the license are not observed and if he sees reason to apprehend imminent danger to the public, to prevent the further use of such enclosure or building as a place of public resort or entertainment.

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[1] The words "Provincial Government" were substituted for the words "Governor-in-Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

12. The District Magistrate may call for and examine the record of any proceeding taken under this Act, may call for any report in connexion therewith, may make or cause to be made any further inquiry, and may pass any order which the authority holding the proceeding might have passed. District Magistrate may revise any proceedings under this Act.

[1] **[12-A.** (1) If any entertainment (including a cinematograph exhibition, dance or drama) to which members of the public are admitted, whether on payment or not, is held in an enclosed place or building, then, no person shall, during the prohibited period as defined in sub-section (2), smoke either— Prohibition of smoking in certain places where entertainments are held.

(*a*) on the stage except in so far as smoking may be part of the entertainment, or

(*b*) in the auditorium, that is to say, in that portion of the enclosed place or building in which accommodation is provided for members of the public :

Provided that the State Government may, by notification in the *Fort St. George Gazette*, exempt any class of entertainments from the provisions of this sub-section.

(2) For the pu.poses of sub-section (1), 'prohibited period' means so much of the period commencing thirty minutes before the beginning of the entertainment and ending with the termination there of, asmay fall within the hours which the State Government may, by notification in the *Fort St. George Gazette*, specify in this behalf for entertainments generally or any class of entertainments.

(3) Any person who contravenes the provisions of this section shall be liable to be ejected summarily from the enclosed place or building by any Police-officer and shall also be punishable with fine which may extend to fifty rupees.

(4) A person ejected under sub-section (3) shall not be entitled to the refund of any payment made by him for admission to the entertainment or to any other compensation.]

13. Every person who, having the immediate control of any enclosed place or building, permits it to be used for public resort or entertainment without having obtained a license or, having obtained a license under this Act, permits such use in contravention of any of the conditions of such license, shall be liable, on conviction before a Magistrate, to fine which may extend to five hundred rupees. Penalties.

[2] **[13-A.** The provisions of this Act shall apply to all areas situated within a distance of three miles from the limits of any municipality, as if such areas formed part of such municipality : Act to apply to areas within three miles of municipal limits.

[1] This section was inserted by section 3 of the Madras City Police and Places of Public Resort (Amendment) Act, 1951 (Madras Act XIII of 1951).

[2] Sections 13-A to 13-C were inserted by section 2 of the Madras Places of Public Resort (Amendment) Act, 1947 (Madras Act XXIII of 1947).

Provided that this section shall not apply to—

(i) areas for the time being included within the limits of some other municipality, or

(ii) areas to which this Act has been, or may be, extended by a notification under section 1, sub-section (3), so long as such notification remains in force.

Distribution of income derived by municipalities from outside municipal limits.

13-B. Where, by virtue of section 13-A, a municipal council derives any income under this Act from any area outside the municipal limits, such income shall be distributed between the municipal council and the local authority or authorities having jurisdiction over such area, in such manner as the [1](State) Government may specify in rules made under this Act.

Provision for cases where jurisdiction is transferred.

13-C. Where, by virtue of any notification issued under section 1, sub-section (3), or otherwise, jurisdiction under this Act over any area stands transferred from one officer or authority to another officer or authority, all licenses granted, all orders passed, and all proceedings commenced, in respect of places, buildings and enclosures in such area, by or before the officer or authority having jurisdiction prior to such transfer, shall be deemed to have been granted, passed, or commenced by or before the officer or authority having jurisdiction subsequent to such transfer.]

Power to make rules.

14. The [2][State Government] may, at any time after the passing of this Act, and from time to time, make rules consistent with this Act, for carrying out the purposes thereof, and may amend or cancel the same. All such rules shall be published in the [3][Official Gazette] and shall come into force on the day on which they are so published or on such later date as may be specified in the notification publishing them.

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[1] The word " State " was substituted for the word " Provincial " by the Adaptation Order of 1950.

[2] The words " Provincial Government " were substituted for the words " Governor-in-Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[3] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

THE MADRAS CITY POLICE ACT, 1888.

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MADRAS ACT No. III OF 1888.[1]

[THE MADRAS CITY POLICE ACT, 1888.]

[12*th April* 1888 ; 26*th June* 1888.]

An Act to regulate the Police of the City of Madras.

WHEREAS it is expedient to amend and consolidate the provisions of the laws for regulating the Police of the City of Madras ; It is enacted as follows :— Preamble.

1. (1) This Act may be cited as the Madras City Police Act, 1888. Short title.

(2) It extends to the whole of the City of Madras as defined in section 3. Local extent.

[2][(3) * * * * * * * * *]

2. [*Enactments repealed.*] *Rep. by the Repealing and Amending Act,* 1901 (*Central Act XI of* 1901).

3. In this Act, unless there be something repugnant in the subject or context,— Interpretation clause.

" City of Madras " includes all places within the local limits of the ordinary original jurisdiction of the High Court of Judicature of Madras : " City of Madras."

" Commissioner " means the Commissioner of Police for Madras [3] [referred to in] section 5 : " Commissioner."

" conviction " means the conviction of the accused person before a Presidency Magistrate : " Conviction."

" imprisonment " means imprisonment of either description as defined in the Indian Penal Code : " imprisonment."

Central Act XLV of 1860.

" common gaming house " means any enclosure, room or place, in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using, or keeping such enclosure, room or place, whether by way of charge for the use of instruments of gaming or of the enclosure, room or place, or otherwise howsoever : [4] [and includes any enclosure, room or place opened, kept or used or permitted to be opened, kept or used for the purpose of gaming on a horse race.] " Common gaming house."

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 8th November 1887, p. 17 ; for Report of the Select Committee, *see ibid*, dated 31st January 1888, p. 1 ; for Proceedings in Council, *see ibid*, dated 29th November 1887, p. 2, and *ibid*, dated 27th March 1888, p. 8.

[2] The words " It shall come into force at once " were repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901)—Third Schedule, Part III.

[3] These words were substituted for the words " appointed under " by section 3 (1) of, and the Second Schedule to, the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

[4] These words were added by section 2 of the Madras City Police (Amendment) Act, 1936 (Madras Act XX of 1936).

"Gaming." [1] ["Gaming" does not include a lottery but includes wagering or betting.

Explanation.—For the purposes of this definition, wagering or betting shall be deemed to comprise the collection or soliciting of bets, the receipt or distribution of winnings or prizes, in money or otherwise, in respect of any wager or bet, or any act which is intended to aid or facilitate wagering or betting or such collection, soliciting, receipt or distribution.]

"Instruments of gaming." [2] ["Instruments of gaming" include any article used or intended to be used as a subject or means of gaming, any document used or intended to be used as a register or record or evidence of any gaming, the proceeds of any gaming, and any winnings or prizes in money or otherwise distributed or intended to be distributed in respect of any gaming.]

"Public places." [3] ["public place" means a place (including a road, street or way, whether a thoroughfare or not, and a landing place) to which the public are granted access or have a right to resort, or over which they have a right to pass.]

"Cattle." "cattle" includes horned cattle, horses, asses, mules, sheep, goats, swine, camels and elephants.

"Subordinate ranks." [4] ["subordinate ranks" means the ranks inferior to that of Assistant Commissioner.]

Police Superannuation Fund. **4.** Nothing in this Act contained shall operate to deprive any person who, on the first day of September, 1867, was a subscriber to the Town Police Superannuation Fund constituted under Act XIII of 1856 [5] [of any of the privileges which he would have had under sections 18 and 19 of that Act].

Administration vested in the Commissioner of Police. **5.** The administration of the Police of the City of Madras shall be vested in an officer to be styled the Commissioner of Police for Madras [6] [* * *].

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[1] This definition of "Gaming" was substituted by section 2 of the Madras City Police and Gaming (Amendment) Act, 1949 (Madras Act VII of 1949), for that definition as substituted for the original definition by section 2 (i) of the Madras City Police (Second Amendment) Act, 1941 (Madras Act XXII of 1941), re-enacted permanently by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[2] This definition of "Instrument of gaming" was substituted for the original definition by section 2 (ii) of the Madras City Police (Second Amendment) Act, 1941 (Madras Act XXII of 1941). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[3] This was inserted by section 2 (i) of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941). This was permanently re-enacted by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[4] This was inserted by the Adaptation Order of 1937.

[5] Repealed in the Madras Presidency by Madras Act VIII of 1867 which was repealed by Madras Act III of 1888.

[6] The words "who shall from time to time be appointed by the Governor in Council of Fort St. George and may be removed by the same authority" were omitted by the Adaptation Order of 1937.

[1][Provided that the [2] [State Government) may, by notification in the [3] (Official Gazette) which [4] (they) may cancel or vary, at any time direct that the administration of such of the Police within the City of Madras as are or may be employed at any railway stations or on any railway premises or within the limits of any railway or part of any railway situated within the limits of the City of Madras, shall be vested in the Inspector-General of Police, and from and after the issue of such notification the powers under this Act of the Commissioner and of his deputies or assistants in respect of such Police shall cease, and the Inspector-General of Police and under his control such officers as shall be appointed by the [2] (State Government) to be Superintendent or Assistant Superintendent of Railway Police, shall as regards such Police exercise all the powers of the Commissioner of Police under this Act, save that the power conferred on the Commissioner by section 10 shall, in respect of such Police, be exercised by the Inspector-General of Police alone.] Administration of Police employed at railway stations, etc., may be vested in the Inspector-General of Police.

6. The Government may, from time to time, appoint one or more Deputies or Assistants to the Commissioner, who shall be competent to perform any of the duties or exercise any of the powers assigned to that officer as Commissioner under his orders. [5][* *] Appointment of Deputies or Assistants to the Commissioner.

7. The Commissioner shall by virtue of his office be a Presidency Magistrate, but shall exercise his powers as Magistrate subject to such orders as may from time to time be issued by the [2] [State Government]: Provided that he shall not exercise any powers under Chapters XVIII, XX or XXI of the Code of Criminal Procedure, 1882.[6] Commissioner's powers as Magistrate.

8. The Commissioner, his Deputies and Assistants, shall by virtue of their office be Justices of the Peace; but shall act as such only so far as may be necessary for the preservation of the peace, for the prevention of offences, for the detection, apprehension and detention of offenders, and for the performance of the duties assigned to the Commissioner by this Act. Commissioner and his Deputies and Assistants to be Justices of the Peace.

9. For the City of Madras, there shall be a Police-force which shall consist of such number of officers and men and shall be otherwise constituted in such manner as shall from time to time be ordered by the [2] [State Government]. Constitution of Police-force.

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[1] This was added by section 1 of Madras Act III of 1898. As to the control by the Inspector-General of Police of the City Police, *see* Madras Act III of 1907.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[4] This word was substituted for the word "he" by *ibid.*

[5] The sentence "Any Deputy or Assistant Commissioner may be removed by order of the Governor in Council" was omitted by *ibid.*

[6] *See* now Central Act V of 1898.

[1] [Subject to the provisions of this Act, the pay and all other conditions of service of members of the subordinate ranks of the Police force shall be such as may be determined by the [2] [State] Government.]

Rules for the government of the force to be made by the Commissioner subject to the control of the State Government.

10. The Commissioner may, from time to time, subject to the control of the [3] [State Government] frame orders and regulations for the general government of the force.

Commissioner may dismiss, suspend, reduce, etc., members of the subordinate ranks of the force.

11 [4] [The Commissioner] may, at any time, [5] [subject to the provisions of Article 311 of the Constitution and to the control of the [1][State Government], [6] [dismiss, suspend or reduce to a lower post or time-scale or to a lower stage in a time-scale], any member [7](of the subordinate ranks of the Police-force) and may order the recovery from the pay of any such member, of the whole or part of any pecuniary loss caused to Government by his negligence or breach of orders.]

Members of the force to receive certificates of enrolment.

12. Every member of the force shall receive on enrolment a certificate in the following form under the signature of the Commissioner :—

FORM.

"*A.B.* has been appointed a member of the Madras City Police-force and is invested with the powers, functions and privileges of a Police-officer."

By virtue of such certificate he shall be vested with the powers, functions and privileges of a Police-officer, and such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise ceases to be employed in the force.

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[1] This was inserted by the Adaptation Order of 1937.

[2] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] These words were substituted for the words "The appointment of the members of the force shall rest with the Commissioner, and he" by the Adaptation Order of 1937.

[5] These words and figures were substituted for the words "subject to the control of the State Government" by the Adaptation (Third Amendment) Order of 1951.

[6] These words were substituted for the words "fine, suspend, reduce or dismiss any member thereof; provided that no fine shall exceed one month's pay" by section 3 of the Madras City Police (Amendment) Act, 1936 (Madras Act XX of 1936).

[7] These words were substituted for the word "thereof" by the Adaptation Order of 1937.

Members of the subordinate ranks of the force not to resign without leave or notice.

13. No member [1][of the subordinate ranks] of the force shall be at liberty to resign his office, or to withdraw himself from the duties thereof, without the written permission of the Commissioner or until after the expiry of two months from the date of his giving to the Commissioner a notice in writing of his intention to do so; and every member [1][of the subordinate ranks] of the force, who shall so resign or withdraw himself, shall be liable, at the discretion of the Commissioner, to forfeit the whole or part of any arrears of pay then due to him; and shall in addition be liable on conviction to fine not exceeding fifty rupees, or to imprisonment not exceeding two months, or to both.

Member ceasing to belong to the force to deliver up certificate, clothing, accoutrements, etc.

14. Every member of the force shall, on ceasing to belong thereto, forthwith deliver up to the Commissioner, or to such person and at such time and place as shall be directed by the Commissioner, his certificate and all clothing, accoutrements and other articles supplied to him for the execution of his duty, and in default thereof shall be liable on conviction to fine not exceeding two hundred rupees, or to imprisonment not exceeding six months, or to both. And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accoutrements and other articles which shall not be delivered up, wherever the same may be found.

Penalty for neglect or violation of duty.

15. For neglect or violation of duty in his office, and for any breach of the orders and regulations framed as aforesaid, every member of the force, besides being suspended or dismissed from his employment as hereinbefore provided, shall be liable on conviction to fine not exceeding one hundred rupees, or to imprisonment not exceeding three months, or to both.

Police enrolled under Central Act XXIV of 1859 to have powers of Police in the City of Madras.

16. Every Police-officer appointed under the provisions of Act XXIV of 1859 may at any time be employed in the City of Madras, and whilst so employed shall have the same duties, powers and privileges, and be subject to the same authority, as Police-officers appointed under this Act.

Appointment of special police-officer.

17. The Commissioner may, of his own authority, appoint any able-bodied male person between the ages of eighteen and fifty-five to be a [2][special police-officer] to assist the Police-force on any temporary emergency. [3][Every special Police-officer so appointed shall receive a certificate in such form

[1] These words were inserted by the Adaptation Order of 1937.

[2] These words were substituted for the words "special constable" by section 4 of the Madras City Police (Amendment) Act, 1936 (Madras Act XX of 1936).

[3] This sentence was added by *ibid.*

as the [1] (State Government) may determine under the signature of the Commissioner.]

Powers of special police-officer.

18. Every [2] [special police-officer] so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties, amenable to the same penalties, and subordinate to the same authorities, as the ordinary officers of police.

Penalty for special police-officer neglecting or refusing to serve.

19. If any person being appointed a [2] [special police-officer] as aforesaid shall, without sufficient excuse, neglect or refuse to serve as such or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable on conviction to fine not exceeding fifty rupees.

Powers to quarter additional Police in disturbed parts of the City.

20. It shall be lawful for the Commissioner, with the sanction of the [3] [State Government] to be notified in the [4] [Official Gazette] and in such other manner as [5] [the State Government] may direct, to employ any Police-force in excess of the ordinary fixed complement to be quartered in any street or in any part of the City of Madras which shall be found to be in a disturbed or dangerous state, or in any part of the said city in which, from the conduct of the inhabitants, he may deem it expedient to increase the number of Police. The inhabitants of the street or part of the city described in the notification shall be charged with the cost of such additional Police-force, or with such part thereof as [6] [the State Government] may direct, and the Commissioner shall assess the proportion in which the amount is to be paid by the inhabitants, according to his judgment of their respective means.

Power to appoint additional police officers.

[7] [**21.** (1) On the application of any person and at his charge, the [8] [State Government] may, for the purpose of keeping the peace or preserving order at any place or of

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "special constable" by section 5 of the Madras City Police (Amendment) Act, 1936 (Madras Act XX of 1936).

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[5] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[6] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[7] This section was substituted for the original section 21 by section 6 of the Madras City Police (Amendment) Act, 1936 (Madras Act XX of 1936).

[8] The words "Provincial Government" were substituted for the word "Commissioner" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

enforcing the provisions of this or of any other Act in respect of any specified class of offences, appoint additional police-officers of such rank or grade, on such pay, if any, and for such time, as [1] (they) may think fit :

Provided that on the expiry of one month from the receipt of notice in writing from the applicant or his representative or on the expiry of such shorter period as the [2] [State Government] may fix, the [2] [State Government] shall discontinue police-officers so appointed.

(2) Every additional police-officer so appointed—

(*a*) shall receive a certificate in such form as the [3] [State Government] may determine, under the signature of the Commissioner ; and

(*b*) shall have such of the powers and duties of an ordinary police-officer of like rank as are specially mentioned in the certificate referred to in clause (*a*) and shall, in the exercise or performance thereof, have the same protection and privileges, be amenable to the same penalties, and be subordinate to the same authorities as such officer.]

Recovery of moneys due.

22. All sums of money payable under the last two preceding sections shall be recoverable by suit in any competent Court or by distress and sale of the goods of the defaulter under the warrant of a Magistrate.

Duties of Police-officers.

23. Every Police-officer shall, for the purposes of this Act, be considered to be always on duty. He shall not engage, without the written permission of the Commissioner in any duty other than his duties under this Act. It shall be his duty to use his best endeavours and ability to prevent offences and public nuisances ; to preserve the peace ; apprehend disorderly and suspicious characters ; to detect and bring offenders to justice ; to take charge of all unclaimed property ; to seize and impound stray cattle ; to collect and communicate intelligence affecting the public peace, and promptly to obey and execute all orders and warrants lawfully issued to him ; and it shall be lawful for every Police-officer, for any of the purposes mentioned in this section, without a warrant to enter and inspect any drinking shop, gaming-house or other place of resort of loose or disorderly characters.

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[1] This word was substituted for the word " he " by the Adaptation Order of 1937.

[2] The words " Provincial Government " were substituted for the word " Commissioner " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[3] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

Police-officer and Agent of the Society for the Prevention of Cruelty to Animals may arrest without warrant on view of offence.

[1][24. (1)] Any Police-officer may arrest without a warrant any person committing in his view any offence made punishable by this Act:

[2][Provided that no Police-officer below the rank of Sub-Inspector shall make any such arrest in respect of an offence punishable under section 71-M.]

[3][(2) Any agent of the Society for the Prevention of Cruelty to Animals who is specially empowered by the [4][State] Government in that behalf may arrest without a warrant any person committing in his view any offence punishable under section 53 ; [5](* * * * * *)].

[6][(3) The agent shall have power to release any person so arrested on his executing a bond with or without sureties, for his appearance before a Magistrate if and when required.

Central Act, V of 1898.

(4) The provisions of the Code of Criminal Procedure, 1898, shall apply to any arrest made or bond taken under this section as if the arrest has been made, or the bond had been taken, under the said Code.]

Apprehension of offenders by private individual.

25. Whoever commits an offence affecting the person or property of another may, if his name and address be unknown, be apprehended by the person injured or in charge of the property concerned, or by any person acting in aid of such person, and may be detained until he gives his name and address and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a Police-officer.

Powers to search for stolen property in certain cases without warrant.

26. Any Police-officer above the rank of constable having reasonable ground to suspect that stolen property is concealed or lodged in any dwelling-house or other place, and is likely to be removed before a search-warrant can be obtained, may search such house or place subject to the general provisions in the Code of Criminal Procedure, 1882,[7] relating to searches.

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[1] Original section 24 was renumbered as section 24 (1) by section 2 of the Madras City Police, Towns Nuisances and Prevention of Cruelty to Animals (Amendment) Act, 1942 (Madras Act XX of 1942), re-enacted permanently with specified modifications by the Second Schedule to the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[2] This proviso was added by section 2 (i) of the Madras City Police (Amendment) Act, 1949 (Madras Act XLII of 1949).

[3] This sub-section was added by section 2 of the Madras City Police Towns Nuisances and Prevention of Cruelty to Animals (Amendment) Act, 1942 (Madras Act XX of 1942), re-enacted permanently with specified modifications by the Second Schedule to the Madras Reenacting Act, 1949 (Madras Act X of 1949).

[4] The word "State" was substituted for the word "Provincial" by the Adaptation Order of 1950.

[5] The words and figures "and the provisions of the Code of Criminal Procedure, 1898, shall apply to an arrest made by such agent as if it had been made by a Police-officer" were omitted by the Second Schedule to the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[6] Sub-sections (3) and (4) were inserted by *ibid.*

[7] *See* now Central Act V of 1898.

Seizure of property regarding which an offence is suspected.

27. Any Police-officer may seize any property or thing which may be found in the possession of any person, where the possession by such person of such property or thing creates a reasonable suspicion of the committal of an offence ; and such seizure shall be forthwith reported to the Commissioner, who shall thereupon make such order respecting the custody or production of the property as he shall think proper.

Pawn brokers, etc., to report stolen property if tendered for pawn or sale.

28. Any officer of Police may deliver to any pawnbroker, dealer in secondhand property or worker in metals a list of any property believed to have been stolen, and thereupon it shall be the duty of such pawnbroker, dealer or worker as aforesaid, upon any article answering the description of any of the property set forth in any such list being offered him in pawn, for sale, or otherwise, to inquire the name and address of the party offering such article, to seize and detain the article, and forthwith to communicate to the nearest police-station the fact of such article having been offered and such name and address as may be given by the party offering it. Any pawnbroker, dealer or worker as aforesaid failing to comply with the requirements of this section without reasonable excuse shall be liable on conviction to fine not exceeding fifty rupees for every such offence. Such pawnbroker, dealer or worker as aforesaid may also detain any person offering such article as aforesaid pending the arrival of the Police.

Power to fix periods within which stray dogs may be killed.

29. The Commissioner may, by order in writing, to be affixed at the principal police-stations and also to be published in some public newspaper, appoint, from time to time, certain periods within which any dogs found straying and unmuzzled may be destroyed.

Power to take charge of, and deliver to party entitled to, movable property under two hundred rupees in value, of persons dying intestate.

30. Whenever any person dies intestate leaving movable property within the City of Madras under two hundred rupees in value, such property may be taken charge of by the Police, and it shall be lawful for the Commissioner to order the said property to be delivered, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title and upon such terms as he may think fit, to any person who may appear to him to be entitled thereto ; [1] and such delivery shall be a full discharge to the Commissioner, and to the [2] [Government] from all liability in respect of such property.

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[1] As to saving of this provision from the operation of the General Succession Law, *see* the Administrator-General's Act, 1913 (Central Act III of 1913), s. 55.

[2] The word "Crown" was substituted for the words "Secretary of State for India" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

Certain provisions of Code of Criminal Procedure, 1882, to apply.

31. The provisions of sections 523, 524 and 525 of the Code of Criminal Procedure, 1882,[1] shall, as nearly as may be practicable, apply to all property seized or taken charge of by the Police. Central Act X of 1882.

Commissioner to keep standard weights and measures.

32. The Commissioner shall keep in his office such standard weights and measures [2] as may be from time to time prescribed or declared to be correct by the [3] [State Government]; and weights and measures shall be held to be false when they do not agree with such standards; and on conviction being had under Chapter XIII of the Indian Penal Code, the weights and measures which formed the subject-matter of the charge shall be forfeited and destroyed. Central Act XLV of 1860.

Power of Police to enter shops to inspect weights, etc.

33. Any Police-officer above the rank of constable may enter any shop or premises for the purpose of inspecting the weights and measures and instruments for weighing or measuring kept or used therein, and may seize any weight, measure or instrument for weighing or measuring which he may have reason to believe is false.

Places of public resort to be licensed.

34. No enclosed place or building having an area of five hundred square feet or upwards shall be used for public entertainment or resort without a licence from the Commissioner.

Eating-houses, hotels, wine shops, fencing schools, etc., to be licensed.

35. No enclosed place or building shall be used as an eating-house, coffee-house, boarding-house, lodging-house, hotel, tavern, wine, beer or spirit shop, arrack or toddy shop, gymnasium or fencing-school, or for the sale or consumption of any intoxicating drug or liquor,[4] without a licence from the Commissioner: Provided that nothing in this section shall apply to the sale in reasonable quantities of any drug or substance for medicinal purposes only, or to any gymnasium or fencing-school of any educational institution controlled or recognized by the [3] [State Government].

Conditions for issue of licences under sections 34 and 35.

36. Licences under the last two preceding sections may be granted by the Commissioner upon such conditions as he, subject to the control and direction of the [3] [State Government], may prescribe, and for such period not exceeding one year as may be stated in the licence: Provided that, in regard to any liquor or drug for the sale of which a licence is required under any law for the time being in force for the

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[1] *See* now Central Act V of 1898.

[2] As to standard measures, *see* the Measures of Length Act, 1889 (Central Act II of 1889), s. 7.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] As to sale of intoxicating drugs or liquors, *see* the Madras Abkari Act, 1886 (Madras Act I of 1886), Ch. IV.

regulation of the excise-revenue, a licence shall be granted by the Commissioner only to persons holding licence under such law and shall have force only while such licence subsists.

Penalty for omission to procure licence as required by section 34 or 35.

[1] [**37.** (1)] Whoever keeps or uses or permits to be kept or used any enclosed place or building requiring a licence under section 34 or 35, without having obtained a licence as therein required, shall be liable on conviction to fine not exceeding fifty rupees for every day on which such place or building is so used.

[2] [(2) Whoever—

(*a*) being the owner or occupier or having the use of any house, room or place, opens, keeps or uses the same for the purpose of gaming on a horse-race ; or

(*b*) being the owner or occupier of any such house, room or place knowingly or wilfully permits the same to be opened, occupied, kept or used by any other person for the purpose aforesaid ; or

(*c*) has the care or management of, or in any manner assists in conducting the business of, any such house, room or place opened, occupied, kept or used for the purpose aforesaid ; or

(*d*) advances or furnishes money for the purpose of gaming on a horse-race with persons frequenting any such house, room or place,

shall, on conviction, be punishable with imprisonment which may extend to seven months, or with fine which may extend to one thousand rupees, or with both :

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one month and fine shall not be less than five hundred rupees.]

[2] [(3) Whoever is found in any house, room or place referred to in sub-section (2), gaming on a horse-race or present for the purpose of gaming on such race shall, on conviction, be punishable with fine which may extend to five hundred rupees or with imprisonment which may extend to one month or with both.

Any person found in any such house, room or place during any gaming on a horse-race therein shall be presumed, until the contrary is proved, to have been there for the purpose of gaming on a horse-race.]

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[1] Section 37 was renumbered as sub-section (1) of section 37 and sub-sections (2) and (3) were added by section 3 of the Madras City Police (Amendment) Act, 1929 (Madras Act XIII of 1929).

[2] Sub-sections (2), (3) and (4) were substituted for the original sub-sections (2) and (3) by section 3 of the Madras City Police (Second Amendment) Act, 1941 (Madras Act XXII of 1941). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[1][(4) Whoever is found gaming on a horse-race in any public street, or thoroughfare, or in any place to which the public have or are permitted to have access shall, on conviction, be punishable with fine which may extend to three hundred rupees, or with imprisonment which may extend to three months, or with both.]

Power to enter and inspect licensed places and unlicensed places believed to be used contrary to the Act.

38. The Commissioner may, by order in writing, authorize any Police-officer above the rank of constable, with such assistance as may be required, to enter and inspect any closed place or building licensed under section 36 at any time when it is open for the reception of persons resorting thereto, and may after recording his reasons in writing, likewise authorize any such officer to enter and inspect any place not licensed which the Commissioner has reason to believe to be used contrary to the provisions of section 34 or 35.

Power to make rules.

39. The Commissioner may make rules for ensuring order and decency and for the public safety at all places of public entertainment or resort, and for regulating the times during which the places referred to in sections 34 and 35 shall be allowed to be open or used, and from time to time may rescind or alter such rules; and in case of breach of any such rules or of the conditions of the licence granted under section 36, may order such places to be closed, and while such order is in force such places so ordered to be closed shall be deemed to be unlicensed places.

Service of copy of order on owner.

40. A copy of any order passed under the last preceding section shall be served on the owner, occupier or keeper of any such place as aforesaid, and if thereafter he does or permits any act in disobedience to such order, he shall be liable on conviction to imprisonment not exceeding three months, or to fine, or to both.

Prohibition of smoking in certain places where entertainments are held.

[2][**40-A.** (1) If any entertainment (including a cinematograph exhibition, dance or drama) to which members of the public are admitted, whether on payment or not, is held in an enclosed place or building, then, no person shall, during the prohibited period as defined in sub-section (2), smoke either—

(*a*) on the stage except in so far as smoking may be part of the entertainment, or

(*b*) in the auditorium, that is to say, in that portion of the enclosed place or building in which accommodation is provided for members of the public;

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[1] Sub-sections (2), (3) and (4) were substituted for the orig nal sub-sections (2) and (3) by section 3 of the Madras City Police (Second Amendment) Act, 1941 (Madras Act XXII of 1941). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[2] This section was inserted by section 2 of the Madras City Police and Places of Public Resort (Amendment) Act, 1951 (Madras Act XIII of 1951).

Provided that the State Government may, by notification in the *Fort St. George Gazette*, exempt any class of entertainments from the provisions of this sub-section.

(2) For the purposes of sub-section (1), 'prohibited period' means so much of the period commencing thirty minutes before the beginning of the entertainment and ending with the termination thereof, as may fall within the hours which the State Government may, by notification in the *Fort St. George Gazette*, specify in this behalf for entertainments generally or any class of entertainments.

(3) Any person who contravenes the provisions of this section shall be liable to be ejected summarily from the enclosed place or building by any Police-officer and shall also be punishable with fine which may extend to fifty rupees.

(4) A person ejected under sub-section (3) shall not be entitled to the refund of any payment made by him for admission to the entertainment or to any other compensation.]

Power to regulate processions in public places, keep order, etc.

41. The Commissioner, or, subject to his orders, any Police officer above the rank of head-constable, may, from time to time, as occasion may require, direct the conduct of all assemblies and processions in [1] [public places]; prescribe the routes by which and the times at which such processions may pass; keep order in [2] [public places] and prevent obstructions on the occasion of such assemblies and processions, and in the neighbourhood of places of worship during the time of public worship and in any case when [3] [public places] may be thronged or liable to be obstructed; and may, [4] [licence and regulate or prohibit the use of music or of sound amplifiers in public places]; and the Commissioner may prohibit any assembly or procession if he considers such prohibition to be necessary for the preservation of the public peace or public safety; and every person opposing or not obeying any order issued as aforesaid, or violating the conditions of any such licence, shall be liable on conviction to a fine not exceeding one hundred rupees.

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[1] These words were substituted for the words "the public roads, streets, or throughfares" by section 2 (ii) of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941), re-enacted permanently by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[2] These words were substituted for the words "the public roads, streets, thoroughfares, landing places and all other places of public resort," by *ibid.*

[3] These words were substituted for the words "the roads, streets, thoroughfares, landing places or places of public resort" by *ibid.*

[4] These words were substituted for the words "licence and regulate the use of music in the streets" by section 2 (ii) of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941), re-enacted permanently by section 2 (1) of, and the first Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

Commissioner may grant warrant to enter common gaming-house.

[1] [42. (1)] If the Commissioner has reason to believe that any [2] [place] is used as a common gaming-house, he may by his warrant give authority to any Police-officer above the rank of a constable to enter, with such assistance as may be found necessary, by night or by day and by force if necessary, any such [2] [place] and to arrest all persons found therein, and to seize all instruments of gaming and all moneys and securities for money and articles of value reasonably suspected to have been used or intended to be used for the purpose of gaming which are found therein, and to search all parts of such [2] [place] and also the persons found therein.

[1] [(2) The Commissioner may, instead of issuing a warrant under sub-section (1), himself exercise all or any of the powers exercisable under such warrant.]

Cards, dice, etc., found in search under last section to be evidence that place is a common gaming-house.

43. Any cards, dice, gaming table or cloth, board or other instruments of gaming found in any [2] [place] entered or searched under the provisions of the last preceding section, or on any person found therein, shall be evidence that such [2] [place] is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Police-officer or any of his assistants.

Proof of playing for stakes unnecessary.

44. It shall not be necessary, in order to convict any person of keeping a common gaming-house or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager, [3] [bet] or stake.

Penalty for opening, etc., a common gaming-house.

45. Whoever opens, keeps or uses or permits to be used any common gaming-house, or conducts or assists in conducting the business of any common gaming-house, or advances or furnishes money for gaming therein, shall be liable on conviction to fine not exceeding five hundred rupees, or to imprisonment not exceeding three months, or to both.

Penalty for being found gaming in a common gaming-house.

46. Whoever is found gaming or present for the purpose of gaming in a common gaming-house shall on conviction be liable to fine not exceeding two hundred rupees or to imprisonment not exceeding one month ; and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

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[1] Section 42 was renumbered as sub-section (1) of section 42 and sub-section (2) was added by section 2 of the Madras City Police (Amendment) Act, 1933 (Madras Act VI of 1933).

[2] The word " place " was substituted for the words " enclosed place or building " by section 4 of the Madras City Police (Amendment) Act, 1929 (Madras Act XIII of 1929).

[3] The word " bet " was inserted by section 5, *ibid*.

Instruments of gaming may be ordered to be destroyed on conviction.

47. On conviction of any person for keeping a common gaming-house, or being present therein for the purpose of gaming, all the instruments of gaming found therein may be destroyed by order of the Magistrate, and such Magistrate may order all or any of the other articles seized, or the proceeds thereof, to be forfeited.

Indemnification of witnesses.

48. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who upon such examination shall make true and faithful discovery to the best of his knowledge of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Saving of games of skill.

49. Nothing in sections 42 to 48 of this Act shall be held to apply to games of mere skill wherever played.

Prohibition of publications relating to horse-races.

[1] [**49-A.** (1) Whoever makes, prints or otherwise produces, publishes, sells, distributes or keeps for sale or distribution, any book, leaflet or other document containing news of acceptances for horse-races or purporting to give tips or any information which is likely to aid or facilitate wagering or betting on horse-races, shall be punishable with fine which may extend to five hundred rupees or with imprisonment which may extend to one month or with both :

Provided that nothing contained in this sub-section, in so far as it relates to horse-races outside the [2] [State] of Madras, shall apply to any newspaper :

Provided further that in regard to horse-races within the [2] [State] of Madras—

(i) any newspaper, or

(ii) any publication which is issued by or under the authority of any race-club empowered in this behalf by the [2] [State] Government and which is distributed solely within the precincts of such race-club or any race-course connected therewith,

may contain such information as may be permitted by rules made by the [2] [State] Government under sub-section (2).

Explanation.—For the purposes of this sub-section, 'newspaper' means any periodical work which contains public news or comments on public news and is published at intervals not exceeding one week, not being a work solely or mainly concerned with races.

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[1] Section 49-A was inserted by section 3 of the Madras City Police and Gaming (Amendment) Act, 1949 (Madras Act VII of 1949).

[2] This word was substituted for the word "Province" by the Adaptation Order of 1950.

(2) The [1] [State] Government may, by notification in the *Fort St. George Gazette*, make rules for the purpose of carrying into effect the provisions of sub-section (1).]

Payment of portion of fine to informants and Police officers.

[2] [**50.** The Magistrate may direct any portion, not exceeding one-half, of any fine which shall be levied under sub-section (2), (3) or (4) of section 37, section 45 or section 46, and of the moneys or proceeds of articles seized and ordered to be forfeited under section 47, to be paid to such informants and Police-officers as may have assisted in the detection of the offender.

A direction under this sub-section may also be made by any Court of appeal, reference or revision.

(2) Where a direction is made under sub-section (1), the Magistrate concerned shall send the amount to be paid under that sub-section, to the Commissioner who shall distribute it among such of the informants and Police-officers aforesaid as may be chosen by him and in such proportions as he thinks fit.

(3) The amount aforesaid shall not be sent to the Commissioner until the expiry of three months from the date of the direction under sub-section (1) or if an appeal is presented within that period, until the appeal has been disposed of.]

Penalty for cheating at games.

51. Whoever by any fraud or unlawful device or malpractice in playing at or with cards, dice or other game, or in bearing a part in the stakes, wagers, [3] [bets] or adventures, or in betting on the sides or hands of the players, or in wagering [3] [or betting] on the event of any game, sport, pastime or exercise, wins from any other person for himself or for any other or others any sum of money or valuable thing [4] [shall be liable on conviction to fine not exceeding five hundred rupees or to imprisonment not exceeding six months or to both].

Power to direct removal of persons from City in special cases.

[5] [**51-A.** (1) Whenever the Commissioner is satisfied from information received or otherwise—

(*a*) that the movements or acts of any person in the City of Madras who has not been born in the said City or in the district of Chingleput, North Arcot or Nellore, are causing, or are calculated to cause, alarm, danger or harm to person

[1] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

[2] This section was substituted for the original section 50 by section 2 of the Madras City Police and Gaming (Amendment) Act, 1950 (Madras Act XXXV of 1950).

[3] The words "bets" and "or betting" were inserted by section 6 of the Madras City Police (Amendment) Act, 1929 (Madras Act XIII of 1929).

[4] These words were substituted for the words and figures "shall be deemed guilty of cheating punishable under section 417 of the Indian Penal Code" by section 7 of the Madras City Police (Amendment) Act, 1936 (Madras Act XX of 1936).

[5] This section was inserted by section 2 (iii) of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941). This was permanently re-enacted by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

or property, or that there are reasonable grounds for believing that such person is engaged or is about to be engaged in the commission of any offence involving force or violence or punishable under Chapter XII, XVI or XVII of the Indian Penal Code or in the abetment of any such offence ; and

Central Act XLV of 1860.

(*b*) that witnesses are not willing to come forward to give evidence in public against such person by reason of apprehension on their part regarding the safety of their person or property,

the Commissioner may, by an order in writing signed by him, direct such person so to conduct himself as shall seem necessary to the Commissioner to prevent such alarm, danger or harm or the commission of such offence, or require such person to remove himself outside the said City, within such time as may be specified in the order.

Explanation.—For the purposes of this sub-section, the decision of the Commissioner as to whether a person has or has not been born in the City of Madras or in the district of Chingleput, North Arcot or Nellore shall be final.

(2) Before an order is passed against any person under sub-section (1), the Commissioner or any Deputy Commissioner authorized by him shall inform such person in writing of the general nature of the material allegations against him and give him a reasonable opportunity of explaining those allegations. The Commissioner or Deputy Commissioner may also examine any witnesses produced by such person. Any written statement made by such person shall be filed with the record.

Such person shall be entitled to appear before the Commissioner or Deputy Commissioner by an advocate or attorney for the purpose of explaining the allegations against him and examining the witnesses produced by him.

(3) The Commissioner or the Deputy Commissioner authorized under sub-section (2) may, for the purpose of securing the attendance of any person against whom an order is proposed to be made under sub-section (1), exercise all or any of the powers of a Court under sections 75 to 77 of the Code of Criminal Procedure, 1898.

Central Act V of 1898.

(4) Any person aggrieved by an order of the Commissioner under sub-section (1) may, within thirty days from the date of such order, appeal to the [1][State] Government who may, after considering all the circumstances of the case, confirm, vary or rescind the order. Where an appeal is preferred to the [1][State] Government under this sub-section, they may at their discretion, subject to such conditions, if any, as they may think fit to impose, stay the operation of the Commissioner's order, pending the passing of final orders on the appeal.

[1] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

(5) No order passed by the Commissioner under sub-section (1) or by the [1] [State] Government under sub-section (4) shall be called in question in any Court except on one or more of the following grounds, namely :—

(*a*) that the procedure laid down in sub-section (2) was not followed ;

(*b*) that there was no material upon which the order could have been based ; or

(*c*) that there was no sufficient ground for believing that witnesses were not willing to come forward to give evidence in public against the person in respect of whom the order was made.

(6) (*a*) Any person who is guilty of the breach of any direction given to him under sub-section (1) or sub-section (4) shall be punishable with imprisonment which may extend to two years or with fine or with both.

(*b*) If any person directed under sub-section (1) or sub-section (4) to remove himself outside the City of Madras fails or refuses to do so or re-enters the said City while such direction is in force, the Commissioner may, in lieu of or in addition to prosecuting such person under clause (*a*), cause him to be arrested and removed in police custody to such place outside the said City as he may direct.

(7) Nothing in this section shall be deemed to require any Police-officer to disclose to the person against whom an order is made under sub-section (1) or to any Court the sources of his information or any fact the communication of which, might, in the opinion of the Commissioner, lead to the disclosure of the identity or name of any informant.]

Brothels.

52. If the Commissioner has reason to believe that a house is used as a common brothel, or lodging-house for prostitutes, or disorderly persons of any description, he may summon the owner or tenant of the house, and on being satisfied that the house is so used and is a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it.

Penalty for cruelty to animals.

53. Whoever cruelly beats, ill-treats or tortures any animal, or causes any animal to be cruelly beaten, ill-treated or tortured, shall be liable on conviction to fine not exceeding one hundred rupees, or to imprisonment not exceeding three months, or to both.

Appointment of infirmary for animals.

[2] **54.** The [3] [State Government] may from time to time appoint places to be infirmaries for the care and treatment of

[1] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

[2] For instance of a notification under the powers conferred by this section *see* the List of Local Rules and Orders.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

animals in respect of which an offence has been committed under the last preceding section, and may nominate fit persons to give certificates of discharge from such infirmary.

Magistrate may order animal to be destroyed or sent to infirmary.

55. Upon conviction of an offence under section 53 of this Act, a Magistrate may after due inquiry order that the animal in respect of which the offence has been committed shall either be destroyed or be sent for care and treatment to an infirmary; and the Magistrate may by his order direct that the reasonable expenses of such care and treatment, or any portion thereof, shall be paid by the owner of such animal.

Animals sent to infirmary may be detained and shall be removed after notice.

56. Every animal so sent for treatment may be detained at the infirmary until its discharge is authorized by a person nominated under section 54; and thereupon the person in charge of the infirmary shall give notice to the owner of the animal, requiring him to pay any sum due under the order of the Magistrate on account of the care and treatment of the animal, and to remove it from the infirmary within forty-eight hours from the service of such notice.

In default of payment by owner of charges, etc., animal may be sold.

57. If the owner shall refuse or neglect to pay the sum due and to remove the animal within the time specified in section 56, any Magistrate may direct that the animal be sold, and that the proceeds, deducting costs of sale, be applied to the payment of the sum due. Any surplus shall, on application within two months from date of sale, be paid to the owner of the animal, and in default of such application shall be forfeited to Government, but the owner shall not be liable to make any payment in excess of the net proceeds of such sale.

Magistrate may order delivery of animal to owner.

58. Any Magistrate may, at any time and upon such terms as he thinks fit, direct that any animal detained under the provisions of section 55 of this Act shall be delivered to the owner thereof.

Costs of inquiries.

59. All costs of inquiries under section 55 of this Act shall be recoverable in the manner provided for the levying of fines from such persons connected with the inquiry as the Magistrate may direct.

Stray animals to be impounded.

60. It shall be lawful for all persons to seize any cattle found straying upon any [1] [public place], or trespassing on any [2] [private grounds], and to confine such cattle in any pound appointed by the Commissioner and if such cattle shall not be redeemed by the owners within ten days after being so impounded by paying to the person having charge of such pound the fee of eight annas for every goat, sheep or pig, and

[1] These words were substituted for the words "road, street or thoroughfare" by section 2 (iv) of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941), re-enacted permanently by section 2(1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[2] These words were substituted for the words "public or private grounds" by *ibid.*

one rupee for every other animal, together with the expenses of feeding the same while impounded, according to such daily rate as may from time to time be fixed by the Commissioner, such cattle shall be publicly sold, and the proceeds of such sale, after paying the said fee and the expenses of feeding, shall be paid to the owners thereof, or in default of their claiming such proceeds for the space of fifteen days after such sale, shall be credited to any fund applicable to Police purposes.

Powers of Police and the Madras Fire Service on the occasion of a fire.

61. On the occasion of a fire in the City of Madras, the Commissioner or any Police-officer above the rank of constable [1] [or any member of the Madras Fire Services above the rank of fireman] may—

(*a*) remove or order the removal of any persons who by their presence interfere with or impede the operations for extinguishing the fire or for saving life or property, and may close any street or passage in or near which any fire is burning;

(*b*) by himself or those acting under his orders break into or through, or pull down, or use for the passage of hoses or other appliances any premises for the purpose of extinguishing the fire, doing as little damage as possible;

(*c*) cause the mains and pipes of any district to be shut off so as to give greater pressure of water in the place where the fire has occurred;

(*d*) call on the persons in charge of any fire-engine to render such assistance as may be possible; and

(*e*) generally, take such measures as may appear necessary for the preservation of life and property.

Any damage done on the occasion of fires by members of [2] [the Madras Fire Services or of] any fire-brigade or by Police-officers or their assistants in the due execution of their duties shall be deemed to be damaged by fire within the meaning of any policy of insurance against fire. But nothing in this section shall exempt any officer of Police or any member of [2] [the Madras Fire Services or of] any fire brigade from liability to damages on account of any acts done by him without reasonable cause.

Cost of establishments, etc., for extinguishing fire to be defrayed by the municipality.

62. All charges on account of establishments and appliances for extinguishing fire maintained by the Police under the orders of the [3] [State Government] for general use, and all expenses incurred on the occasion of any fire by the Police in the execution of their duty, shall be paid by the Municipal Commissioners for the City of Madras upon the Commissioner certifying the amount thereof.

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[1] These words were inserted by section 2 (i) of the Madras City Police and District Police (Amendment) Act, 1947 (Madras Act VIII of 1947).

[2] These words were inserted by section 2 (ii), *ibid.*

[3] The words " Provincial Government " were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for " Provincial " by the Adaptation Order of 1950.

[1] [62-A. Whoever gives or causes to be given to any fire-brigade in the City of Madras or [2][to any member thereof or to any member of the Madras Fire Services having jurisdiction over the City or any part thereof] whether by means of a street fire-alarm, statement, message or otherwise, any alarm of fire which he knows to be false, shall be liable on conviction to fine which may extend to fifty rupees.] Penalty for false alarm of fire.

[3] [Whoever is convicted under this section, after having been previously convicted either under this section or under section 43 of the Madras District Police Act, 1859, shall be liable to simple imprisonment for a period which may extend to six months and shall also be liable to fine.]

Central Act XXIV of 1859.

63. Whoever without reasonable excuse wilfully enters into or on any dwelling-house or other building, or on any land or ground attached thereto, or on any boat or vessel, or on any ground belonging to the [4][Government] or appropriated to public purposes, shall be liable on conviction to fine not exceeding twenty rupees. Penalty for wilful trespass.

64. Whoever is found between sunset and sunrise— Penalty for being found armed between sunset and sunrise intending to commit an offence, etc.

(1) armed with any dangerous instrument with intent to commit an offence, or

(2) having his face covered or otherwise disguised with intent to commit an offence, or

(3) in any dwelling-house or other building, or on board any vessel or boat, without being able satisfactorily to account for his presence there, or

(4) lying or loitering in any [5][bazaar, yard or public place], being a reputed thief and without being able to give a satisfactory account of himself, or

(5) having in his possession without lawful excuse any implement of house-breaking,

may be arrested by any Police-officer without a warrant, and shall be liable on conviction to imprisonment for any term not exceeding three months.

65. Whoever is found in possession or is proved to have been in possession of anything which there is reason to believe to be stolen property or property fraudulently obtained and Penalty for possession of property believed to have been stolen.

[1] Section 62-A was inserted by section 2 of the Madras City Police (Second Amendment) Act, 1933 (Madras Act XIII of 1933).

[2] These words were substituted for the words " to any officer or fireman thereof " by section 2(iii) of the Madras City Police and District Police (Amendment) Act, 1947 (Madras Act VIII of 1947).

[3] This paragraph was added by section 2 (iv), *ibid.*

[4] The word " Crown " was substituted for the words " Governor in Council" by the Adaptation Order of 1937 and the word " Government " was substituted for " Crown " by the Adaptation Order of 1950.

[5] These words were substituted for the words " bazaar, street, road, yard, thoroughfare, or other place " by section 2 (v) of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941). This was permanently re-enacted by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

for the possession of which he fails satisfactorily to account, shall be liable on conviction to fine not exceeding one hundred rupees or to imprisonment not exceeding three months.

Penalty for buying or taking pledge from a child.

66. Whoever, without the knowledge and consent of the owner, buys any article from any child apparently under the age of fourteen years, or takes any article as a pawn, pledge or security for any sum of money lent or advanced to such child, shall be liable on conviction to fine not exceeding one hundred rupees.

Penalty for introducing spirits, etc., into barracks or on board vessels of war.

67. Whoever introduces, or attempts to introduce, into Fort St. George or into any military barracks, guard-room or encampment or on board any vessel of war belonging to [1][Government] any spirituous or fermented liquor or intoxicating drug or preparation, without the licence in writing of the Commanding Officer and not intended for some person above the rank of non-commissioned officer, shall be liable on conviction to fine not exceeding one hundred rupees or to imprisonment not exceeding two months, and such liquor, drug or preparation, and the vessels containing the same, shall be liable to be forfeited.

Penalty for introducing spirits, etc., into hospitals.

68. Whoever introduces, or attempts to introduce, without due permission into any public hospital, any spirituous or fermented liquor or intoxicating drug or preparation shall be liable on conviction to fine not exceeding fifty rupees or to imprisonment not exceeding two months.

Penalty for carrying weapon without authority.

69. Whoever, not being a soldier or sailor [2][in the Indian Army or Navy] or a Police-officer or a member of a Volunteer corps, goes armed with any sword, spear, gun or other offensive weapon in any public place, unless by leave of the Commissioner, shall be liable to be disarmed by any Police-officer, and the weapon so seized shall be forfeited to Government unless redeemed by payment of such fine not exceeding ten rupees as the Commissioner may impose.

Penalty for harbouring deserters from vessels.

70. Whoever wilfully harbours or conceals any seaman or apprentice belonging to any vessel knowing or having reason to believe such seaman or apprentice to be a deserter, shall be liable on conviction to fine not exceeding one hundred rupees.

Penalty for certain offences in public place.

71. Whoever, in any [3][public place] commits any of the following offences, shall be liable on conviction to fine not

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[1] This word was substituted for the words " Her Majesty " by the Adaptation Order of 1950.

[2] These words were substituted for the words " in the Army or Navy of the Queen " by the Adaptation (Amendment) Order of 1950.

[3] These words were substituted for the words "public street, road, thoroughfare or place of public resort " by section 2 (vi) (*a*) of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941). This was permanently re-enacted by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

exceeding fifty rupees, or to imprisonment which may extend to one month : —

i Whoever drives or rides any animal, or drives, drags or pushes any vehicle in a rash or negligent manner. — Rash or negligent driving.

ii Whoever by negligence or ill-usage in driving cattle causes any mischief or obstruction by such cattle. — Causing obstruction by negligence in driving cattle.

iii Whoever drives, rides or leads any elephant or camel without permission from the Commissioner. — Driving, etc., elephant or camel without Commissioner's permission.

[1][iv * * * *]

[2][v Whoever, without reasonable cause, drives, drags or pushes any vehicle otherwise than in accordance with the rules of the road notified from time to time by the [3][State Government], or fails, to obey the directions of a police-officer for the time being in charge of the regulation of traffic.] — Driving, etc., otherwise than in accordance with the rules of the road.

vi Whoever drives, drags or pushes any vehicle without springs on any road or street except on the side thereof. — Driving, etc., vehicles without springs otherwise than on side of road.

vii Whoever leads or rides any animal, or drives, drags or pushes any vehicle, upon any foot-way, or fastens any animal so that it can stand across or upon any foot-way. — Driving, etc. animal or vehicle on a foot-way.

viii Whoever permits any cattle or vehicle to be under the control of a child under the age of twelve years. — Permitting cattle or vehicle to be under control of child.

ix Whoever, being in charge of any vehicle or cattle, leaves it or them at such distance as not to have the same under due control. — Leaving vehicle or cattle without due control.

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[1] Clause iv was omitted by section 2 of the Madras City Police (Amendment) Act, 1940 (Madras Act VII of 1940). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[2] This clause was substituted for the original clause v by section 8 (i) of the Madras City Police (Amendment) Act, 1936 (Madras Act XX of 1936).

[3] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State" was substituted for " Provincial " by the Adaptation Order of 1950.

Exposing for show animal or vehicle, making or repairing vehicle, or training horses except as allowed by Commissioner.

x Whoever cleans or exposes for show, hire or sale any animal or vehicle, or makes or repairs any part of any vehicle except in cases of accident where repair on the spot is necessary, or trains or breaks any horse except in such places and at such times as may be allowed by the Commissioner.

Obstructing thoroughfare.

xi Whoever causes any vehicle to remain or stand longer than may be necessary for loading or unloading, except at places appointed for the purpose by the Commissioner, or fastens any horse or other animal so as to cause obstruction; or in any way wilfully obstructs or causes obstruction to the free passage of any thoroughfare.

Letting loose horses or ferocious dogs.

xii Whoever negligently lets loose any horse, or suffers any ferocious dog to be at large without a muzzle, or sets on or urges any dog or other animal to attack, worry or put in fear any person or cattle.

Conveying article which projects more than five feet.

xiii Whoever conveys through the streets any article which projects more than five feet in front or behind the vehicle or vehicles on which it is placed.

Flying a kite, wantonly frightening horse, etc.

xiv Whoever flies a kite or wantonly frightens any horse, or in driving, dragging or pushing any vehicle creates a noise reasonably calculated to cause danger to the persons using the thoroughfare.

Playing music, beating tom-tom, etc.

xv Whoever beats a drum or tom-tom, or blows a horn or trumpet, or beats or sounds any brass or other instrument or utensil, or plays any music [1][or uses any sound amplifier] [2][except at such times and places and subject to such conditions as shall, from time to time, be allowed] by the Commissioner.

Affixing bills or defacing walls.

[3][xvi Whoever, without the consent of the owner or occupier, in any manner affixes or causes to be affixed any bill, notice, document, paper or other thing upon the [4][public place] or upon any building, monument, statue, effigy, post, wall, fence, tree or other erection therein, or in any manner defaces, disfigures, writes upon or otherwise marks, or causes to be defaced, disfigured, written upon, or otherwise

[1] These words were inserted by section 2 (vi) (*b*) of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941), re-enacted permanently by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[2] These words were substituted for the words "except at such times and places as shall be, from time to time, allowed" by *ibid.*

[3] This clause was substituted for the original clause xvi by section 8 (ii) of the Madras City Police (Amendment) Act, 1936 (Madras Act XX of 1936).

[4] These words were substituted for the words "street, road, thoroughfare or place of public resort" by section 2 (vi) (*c*) of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941). This was permanently re-enacted by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

marked, the [1] [public place] or any such building, monument, statue, effigy, post, wall, fence, tree or erection.]

Bathing in public street or aqueduct.

xvii Whoever bathes or washes himself or any other person, or any animal or clothing, except in a place set apart for such purpose.

Intruding on or fouling bathing-place.

xviii Whoever obstructs or incommodes a person bathing at any place set apart as a bathing-place by wilful intrusion, or by washing cattle or dogs at or near such place, or in any other way.

Using indecent or threatening language.

xix Whoever uses any indecent, threatening, abusive or insulting words or behaves in a threatening or insulting manner, or posts up or affixes or exhibits any indecent, threatening, abusive or insulting paper or drawing with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned.

[2] [xx * * * * *]

[3] [xxi * * * * *]

Penalty for begging in public places.

[4] [**71-A.** Whoever in any public street, road, or thoroughfare or any place of public resort, begs or applies for alms, or exposes or exhibits any sore, wound, bodily ailment or deformity with the object of exciting charity or of extorting alms, shall be punishable with fine which may extend to fifty rupees or with imprisonment which may extend to one month.

Definitions of "workhouse" and "special home".

71-B. In sections 71-C to 71-L—

(*a*) 'workhouse' shall mean a place notified by the [5] [State] Government in the *Fort St. George Gazette* as suitable for the reception of persons physically capable of ordinary manual labour, who are committed to a workhouse under any of the provisions contained in the said sections; and

(*b*) 'special home' shall mean a place notified by the [5] [State] Government in the *Fort St. George Gazette* as suitable for the reception of persons not physically capable of ordinary manual labour, who are committed to a special home under any of the provisions contained in the said sections.

Application of sections 71-D to 71-I.

71-C. The provisions of sections 71-D to 71-G shall apply only if the [5] [State] Government have notified a place

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[1] These words were substituted for the words "street, road, thoroughfare or place of public resort" by section 2 (vi) (*c*) of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941). This was permanently re-enacted by section 2 (1) of, and the First Schedule to the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[2] Clause xx was repealed by section 3 of the Madras Suppression of Immoral Traffic Act, 1930 (Madras Act V of 1930).

[3] Clause xxi was omitted by section 2 of the Madras City Police (Amendment) Act, 1941 (Madras Act XIII of 1941), re-enacted permanently by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[4] Sections 71-A to 71-L were inserted by section 3 *ibid* and sections 71-B to 71-L came into force on 1st January 1944.

[5] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

as a workhouse or as a special home ; the provisions of section 71-H shall apply if the [1] [State] Government have notified a place as a workhouse ; and the provisions of section 71-I shall apply if the [1] [State] Government have notified a place as a special home.

Persons arrested for offence under section 71-A to be examined by medical officer.

[2] (**71-D.** Any person arrested by a Police-officer for an offence punishable under section 71-A, who in the opinion of such Police-officer has attained the age of sixteen years, shall be informed, as soon as may be, of the grounds for such arrest, and shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate ; and no such person shall be detained in custody beyond the said period without the authority of a Magistrate. The Magistrate shall without delay order the person to be taken before a medical officer attached to the Police department and the medical officer shall after examining such person grant a certificate regarding his age and physical capacity for ordinary manual labour.)

Arrested person to be produced before Juvenile Court, if found to be under 16.

71-E. If in the opinion of such medical officer the person arrested has not attained the age of sixteen years, such person shall without delay be produced, together with the certificate of the medical officer, before a Juvenile Court referred to in sub-section (1) of section 71-K and the provisions of that section shall then apply to the case.

Arrested person to be produced before salaried Presidency Magistrate, if found to be 16 or over.

71-F. (1) If in the opinion of such medical officer the person arrested has attained the age of sixteen years, he shall without delay be produced before a salaried Presidency Magistrate together with the certificate and a report by a Police-officer of the facts of the case.

(2) The Magistrate shall make a summary inquiry into the facts of the case and the circumstances and the character of the person produced before him.

(3) During such inquiry the Magistrate shall explain to such person the facts alleged against him in the Police report and record any statement which he may wish to make with reference thereto.

(4) If such person disputes the correctness of the Police report in any material respect, the Magistrate shall proceed as nearly as may be in accordance with the procedure laid down for the trial of summons cases in the Code of Criminal Procedure, 1898. Central Act V of 1898.

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[1] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

[2] This section was substituted for the original section 71-D by the Adaptation (Amendment) Order of 1950.

Orders to be passed by Magistrate if he finds accused to be under 16.

71-G. If the Magistrate finds that the person in respect of whom an inquiry is made under section 71-F is guilty of an offence under section 71-A, but has not attained the age of sixteen years, the Magistrate may pass any order which a Juvenile Court could have passed if such person had been produced before it under sub-section (1) of section 71-K.

Power of Magistrate to commit able-bodied accused of 16 or over, to work-house.

71-H. (1) If the Magistrate finds that the person in respect of whom such inquiry is made is guilty of an offence under section 71-A, has attained the age of sixteen years, and is physically capable of ordinary manual labour, the Magistrate may, if there is a workhouse, instead of sentencing him under section 71-A, order his committal to such workhouse for a specified period not exceeding three years :

Provided that the Magistrate may in his discretion order the release of such person if he gives an undertaking in writing that he will not again commit an offence under section 71-A for such period not exceeding two years as the Magistrate may direct.

(2) Any person who commits an offence under section 71-A in breach of an undertaking given by him under the proviso to sub-section (1), shall, if in the opinion of the Magistrate he is physically capable of ordinary manual labour, be punishable with imprisonment for a term which may extend to six months :

Provided that the Magistrate may, instead of sentencing the offender as aforesaid, order his committal to a workhouse for a specified period not exceeding three years.

Power of Magistrate to commit accused who is not able-bodied to special home.

71-I. If the Magistrate finds that the person in respect of whom an inquiry is made under section 71-F is guilty of an offence under section 71-A and has attained the age of sixteen years but is not physically capable of ordinary manual labour, the Magistrate may, if there is a special home, instead of sentencing him under section 71-A, order his committal to such home for a specified period not exceeding three years.

Extension of period of detention.

[1] [**71-II.** On the application of any person detained in a workhouse or special home under this Act and after considering the remarks of the officer in charge of the workhouse or special home on such application and hearing any representations which may be made by or on behalf of the applicant, a salaried Presidency Magistrate may order the continuance of the detention of the applicant in the workhouse or special home for a further period not exceeding, on each occasion, two years from the date on which his detention will otherwise expire, if the Magistrate is satisfied that such continuance is desired by the applicant and would be in his interest.]

[1]This section was inserted by section 2 (ii) of the Madras City Police (Amendment) Act, 1949 (Madras Act XLII of 1949).

Magistrate's finding regarding age to be final.

71-J. Where a Magistrate has arrived at a finding regarding the age of a person dealt with by him under section 71-G, 71-H or 71-I, such age shall, for the purposes thereof, be deemed to be his true age, and no order or judgment of the Magistrate shall be deemed to be invalid or be liable to be interfered with in appeal or revision on the ground that the age of such person was not correctly determined by the Magistrate.

Production of arrested person under 16 before Juvenile Court, and procedure and powers of such Court.

71-K. (1) [1] [If any person arrested by a Police-officer for an offence punishable under section 71-A has, in the opinion of such Police-officer, not attained the age of sixteen years, he shall be informed, as soon as may be, of the grounds for such arrest, and shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate; and no such person shall be detained in custody beyond the said period without the authority of a Magistrate. On such production, the Magistrate shall without delay direct the person to be taken before a Juvenile Court established under sub-section (1) of section 36 of the Madras Children Act, 1920. The person shall then be dealt with under the provisions of that Act as modified by the provisions of this section :] Madras Act IV of 1920.

Provided that if the Juvenile Court is satisfied on inquiry that such person has attained the age of sixteen years, it shall record a finding to that effect, and thereupon it shall be open to the Police to proceed against such person under section 71-A, or if there is a workhouse or a special home, under section 71-D ; and in the latter case the medical officer referred to in section 71-D shall be required to certify only regarding the physical capacity of such person for ordinary manual labour, and the finding of the Juvenile Court regarding the age of such person shall also be binding on the salaried Presidency Magistrate before whom he may be produced.

(2) If the Juvenile Court finds on inquiry that any person brought before it under sub-section (1) has not attained the age of fourteen years and is guilty of an offence under section 71-A and that he—

(*a*) has no home or settled place of abode or visible means of subsistence, or has no parent or guardian, or has a parent or guardian who does not exercise proper guardianship, or

(*b*) is destitute and both his parents or his surviving parent, or in the case of an illegitimate child, his mother, are or is undergoing transportation or imprisonment, or

[1] This paragraph was substituted for the opening paragraph by the Adaptation (Third Amendment) Order, 1951.

(*c*) is under the care of a parent or guardian who by reason of criminal or drunken habits is unfit to have such care, the Court may pass such order in respect of the offender as it could have passed if he had been brought before it under sub-section (1) of section 29 of the Madras Children Act, 1920 :

Madras Act IV of 1920.

Provided that if the Juvenile Court is satisfied that it is inexpedient to send the offender to a certified school by reason of his bodily ailment or incapacity or other cause, the Court may, if there is a special home and separate accommodation is provided in such home for persons who have not attained the age of fourteen years, order his committal to such home for a specified period not exceeding three years.

(3) If the Juvenile Court finds on inquiry that a person produced before it under sub-section (1) has attained the age of fourteen years but has not attained the age of sixteen years and that he is guilty of an offence under section 71-A, the Court may order his committal for a specified period not exceeding three years—

(*a*) in case it finds that he is physically capable of ordinary manual labour, to a work-house, if there is one, and

(*b*) in case it finds that he is not physically capable of ordinary manual labour, to a special home, if there is one.

Power of State Government to make rules for carrying into effect sections 71-B to 71-K.

[**71-L.** (1) The [1][State] Government may, by notification in the *Fort St. George Gazette*, make rules for carrying into effect the provisions of sections 71-B to 71-K.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the management of work-houses and special homes, the detention of persons committed to such work-houses and special homes, and the maintenance, care, treatment and instruction of such persons, including all matters relating to their diet and accommodation as well as their labour and general conduct ;

(*b*) the discharge of persons from such work-houses and special homes ;

(*c*) the obtaining of suitable employment outside such work-house and special homes for persons detained therein ; and

(*d*) the nature, incidents and maximum periods of the punishments to be imposed on persons detained in work-houses and special homes for breach of any rules or for failure or neglect to accept any suitable employment outside such work-houses and special homes which may be obtained for them.]

[1] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

Maximum laden weight of hand-carts, etc.

[1][71-M. (1) The maximum laden weight of a hand-cart shall not exceed the following limits :—

	If the cart is fitted with pneumatic tyres on both or all the wheels.	In other cases.
	CWT.	CWT.
(i) When the cart is dragged or pushed by one person.	7	6
(ii) When the cart is dragged or pushed by two persons.	14	12
(iii) When the cart is dragged or pushed by three persons.	23	18
(iv) When the cart is dragged or pushed by four persons or more	30	24

(2) The height of a load on a hand-cart shall not exceed the limit, if any, laid down in by-laws made under this Act.

(3) No person under the age of eighteen years shall drag or push a hand-cart, whether by himself or along with others.

(4) If a hand-cart is dragged or pushed in contravention of the provisions of sub-section (1), (2) or (3), any person who so drags or pushes it, and also any person employing him or in any way responsible for or abetting such contravention or employment, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees.]

Penalty for gambling, cock-fighting in public place.

72. Whoever is found gaming with cards, dice, counters, money, or other instruments of gaming in any [2][public place], or publicly fighting cocks, or present as a spectator of such gaming or cock-fighting, shall be liable on conviction to fine not exceeding fifty rupees or to imprisonment not exceeding one month ; and such instruments of gaming and money shall be forfeited.

Penalty for committing nuisance in public place.

73. Whoever in or by the side of or near to any [3][public place], wilfully and indecently exposes his person, or commits a nuisance by easing himself, and whoever having the care or custody of any child under seven years of age omits to prevent such child from committing a nuisance as aforesaid, shall be liable on conviction to fine not exceeding fifty rupees.

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[1] Section 71-M was inserted by section 2 of the Madras City Police (Amendment) Act, 1947 (Madras Act XXVIII of 1947).

[2] These words were substituted for the words "public street, place or thoroughfare" by section 2 (vii) of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941). This was permanently re-enacted by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[3] These words were substituted for the words "public street, thoroughfare or place of public resort" by section 2 (viii) of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941), re-enacted permanently by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

Penalty for lighting bonfire, burning straw, discharging fire-arm, etc., in or near any public place.

74. Whoever, except at such times and places as the Commissioner may allow, in or near any [1][public place] lights any bonfire, sets fire to or burns any straw or other matter, discharges any fire-arm or air-gun, lets off or discharges any firework, or sends up any fire-balloon, or permits such act to be done in premises over which he has control, shall be liable on conviction to fine not exceeding fifty rupees. In the event of any such act being done within any private premises, the person having the immediate control of such premises shall be deemed to have permitted the act, unless he can prove that the act was committed without his knowledge.

Penalty for drunkenness or riotous or indecent behaviour in public place, etc.

75. Whoever is found drunk and incapable of taking care of himself, is guilty of any riotous, disorderly or indecent behaviour [2][in any public place, in any place of public amusement], or on board any passenger boat or vessel, and whoever is guilty of any violent, disorderly or indecent behaviour in any Police-court, office, or station, shall be liable on conviction to fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both.

Penalty for breach of condition of licences.

76. For any breach of any of the conditions of a licence granted under this Act, the offenders shall be liable on conviction to fine not exceeding one hundred rupees, and such fine may be recovered from the person licensed notwithstanding that such breach may have been owing to the default or carelessness of his servant or agent in charge of the shop or place. Any person so convicted shall also be liable to the forfeiture of his licence at the discretion of the Commissioner.

Fee for licence.

77. For every licence or permission granted under this Act, the Commissioner may levy such fee not exceeding two rupees as may from time to time be fixed by the [State Government].

Power to make by-laws.

78. The [3][State Government] may make by-laws consistent with this Act for more effectually carrying out the objects thereof and for the preservation of order, and may from time to time repeal, alter or amend any such by-law.

By-laws to be published in English and vernacular.

79. Every by-law shall be published in the [4][Official Gazette] in English, Tamil, Telugu and Hindustani ; and no by-law shall have effect until the expiration of one month from the date of its first publication in the [4][Official Gazette].

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[1] These words were substituted for the words " street, road or thoroughfare " by section 2 (ix) of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941), re-enacted permanently by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[2] These words were substituted for the words " in any street or thoroughfare in any place of public amusement or resort " by section 2 (x) *ibid.*

[3] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

Penalty for breach of by-law.

80. For any breach of any such by-law, the offender shall be liable on conviction to fine not exceeding ten rupees or to imprisonment not exceeding one week.

Limitation of actions.

81. On account of [1][anything done or intended to be done under the provisions of this Act, or under the provisions of any other law for the time being in force conferring powers on the police], no action shall be brought after the expiration of six months, and no prosecution shall be instituted after the expiration of three months, from the date on which the act complained of shall have been committed. And no action shall lie in respect of any action on account of which a criminal prosecution [2]has been instituted and has failed].

Saving of penalty provided by other law.

82. Nothing in this Act contained shall be construed to prevent any person from being liable under any other law to any other or higher punishment than is provided by this Act: Provided that no person shall be punished twice for the same offence.

SCHEDULE.

[*Repealed by the Repealing and Amending Act*, 1901 (*Central Act XI of* 1901), *Third Sch., Pt. III.*]

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[1] These words were substituted for the words "anything done either under provisions of this Act or under the provisions of any other law for the time being in force, conferring powers on the police" by section 2 (v) of the Madras City Police and District Police (Amendment) Act, 1947 (Madras Act VIII of 1947).

[2] These words were substituted for the words "has been instituted and failed" by section 3 (1) of and the Second Schedule to the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

THE MADRAS VILLAGE COURTS ACT, 1888.

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MADRAS ACT No. I OF 1889.[1]

[THE MADRAS VILLAGE COURTS ACT, 1888.]

[1*st December* 1888 ; 30*th January* 1889.]

An Act to consolidate and amend the law relating to the courts of village munsifs in the Presidency of Fort St. George.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the courts of village munsifs in the Presidency of Fort St. George ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and commencement. Local extent. **1.** (1) This Act may be called "The Madras Village Courts Act, 1888," and shall come into force at once. [2][. . .]

(2) It extends to the territories subject [3][. . .] to the Governor in Council of the Presidency of Fort St. George, except the Scheduled Districts as defined in Act No. XIV of 1874, and the town of Madras. Provided that the [4][State Government] may by notification in the [5][Official Gazette] from time to time withdraw any village or area from its operation and cancel such notification.

2. [*Enactments repealed.*] *Repealed by section* 3 (2) *of the Repealing and Amending Act,* 1901 (*Central Act XI of* 1901).

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 20th December 1887, page 13 ; for Report of the Select Committee, *see ibid,* dated 15th May 1888, page 1 ; for Proceedings in Council, *see ibid,* dated 24th January 1888, page 1, and *ibid,* dated 13th November 1888, page 14.

[2] Certain words were omitted by the Madras Village Courts (Amendment) Act, 1919 (Madras Act II of 1920), section 3.

The Act was declared not to apply to the East Godavari Agency by notification under sub-section (2) of section 52-A of the Government of India Act—*see* Notification No. 136, Revenue, published at pages 553–554 of Part I of the *Fort St. George Gazette,* dated the 15th April 1930.

The Act has been extended with certain modifications to the Scheduled Areas in the East Godavari, West Godavari and (Vizagapatam) districts by the Madras (Partially Excluded Areas) Village Courts Regulation, 1940 (Madras Regulation I of 1940).

[3] The words "for the time being" were omitted by the Adaptatior Order of 1937.

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[5] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

Application of Act to suits or decrees pending.

3. All suits pending in the courts of village munsifs at the time of this Act coming into force shall be deemed to have been instituted under this Act, and all decrees passed by village munsifs before such date may be executed under the provisions hereinafter contained relating to execution of decrees passed under this Act.

Procedure for suits and decrees pending in area withdrawn from Act.

4. When any village or area is withdrawn from the operation of this Act, all suits pending in a village court therein shall be heard and determined, and all decrees passed by such court and remaining unexecuted shall be executed by the civil court which, if the suit were about to be instituted, would have jurisdiction to try it.

Such suits shall be tried and such decrees shall be executed as suits instituted in, and decrees passed by, such civil court.

Interpretation clause.

5. In this Act, unless there be something repugnant in the subject or context—

"Village."

"Village" means in a permanently settled estate a local area for which at the passing of this Act there is a village munsif's court constituted under Madras Regulation IV of 1816 [1] or for which a village court has been established under this Act; and elsewhere a local area recognized by [2][the State Government] from time to time as a village for purposes of collecting the land revenue.

"Village court."

[3]["Village court" means the court of a village munsif appointed under section 7 or a panchayat court established under section 9.

"Village munsif."

"Village munsif" means the judge of the court of a village munsif established under this Act [4][and except in sub-section (1) of section 16 includes—

(*a*) the president of a panchayat court; and

(*b*) the vice-president of a panchayat court, exercising the functions of its president under this Act or the rules made thereunder].

"District Munsif."

"District Munsif" means the District Munsif within the local limits of whose jurisdiction the village court is situated:

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[1] Repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901) s. 3.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] These definitions were substituted for the original definitions of "Village Court", "Village Munsif", "District Judge" and "District Munsif" by section 4 of the Madras Village Courts (Amendment) Act, 1919 (Madras Act II of 1920).

[4] This was substituted for the words and figures "and except in sections 7 and 16 includes the President of a Panchayat Court" by section 2 (i) of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

(Chapter I.—Preliminary. Chapter II.—Establishment and Constitution of Village Courts)

Provided that if the village is not situated within the local limits of the jurisdiction of any District Munsif, the Subordinate Judge, or if there be no Subordinate Judge, the District Judge within the local limits of whose jurisdiction the village is situated, shall be deemed to be the District Munsif:

Provided further that if in any area the District Munsif does not exercise small cause jurisdiction and a separate Court of Small Causes has been established, the Judge of such Court shall be deemed to be the District Munsif.]

"Movable property."

[1]["Movable property" includes growing crops as well as ungathered products of land.]

"Prescribed."

[2]["Prescribed" means prescribed by rule made by the [3](State Government) under this Act.]

"Sign."

[2]["Sign" with its grammatical variations and cognate expressions shall, with reference to a person who is unable to write his name, include "mark" with its grammatical variations and cognate expressions.]

CHAPTER II.

Establishment and Constitution of Village Courts.

Establishment of village courts.

6. The [2][State Government] may from time to time by order to be notified in the District Gazette—

(1) group two or more villages and establish one village court for them in lieu of the several village courts previously existing therein;

(2) constitute divisions in any village, and establish a separate village court for each of such divisions in lieu of the village court previously existing in such village;

(3) establish a new village court for any specified area.

[4][* * * *].

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[1] This definition was inserted by section 2 (ii) of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

[2] This definition was inserted by section 4 of the Madras Village Courts (Amendment) Act, 1919 (Madras Act II of 1920).

The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] The last sentence of section 6 was omitted by section 6 of the Madras Village Courts (Amendment) Act, 1919 (Madras Act II of 1920).

(Chapter II.—Establishment and Constitution of Village Courts)

Appointment of village munsif.

7. [1] [In villages where there are no panchayat courts] village munsifs shall be appointed by the Collector [2] [in the manner prescribed] provided that no person not residing within the village shall be eligible for that office.

Suspension or removal of village munsif.

8. The Collector of the district may suspend or remove a village munsif [3] [or a member of a panchayat court] for incapacity, neglect of duty, misconduct or other just and sufficient cause, and shall do so, on a requisition passed by the District Judge for like cause appearing in the judicial proceedings of a [4] [village court].

From every order [5] [of suspension or removal] an appeal may be made within three months to the Board of Revenue, if the order was passed by the Collector without orders from the District Judge, or to the High Court if passed upon such orders. The decision of the Board of Revenue or High Court as the case may be, on all such appeals shall be final.

Constitution of panchayat courts.

[6] [**9.** (1) The [7] [State Government] may, by order notified in the District Gazette, constitute a panchayat court, as hereinafter provided, for any village, group of villages or part of a village; and thereupon no court of a village munsif appointed under section 7 shall exercise jurisdiction under this Act in any part of such area.

(2) For every court so established the Collector shall determine the number of members, provided that such number shall not be less than five nor more than twelve.

(3) Subject to such rules as may be made by the [7] [State Government] the members of the panchayat court shall be appointed by election.

[8] [(3-A) Notwithstanding anything contained in sub-sections (2) and (3), the Collector may in his discretion appoint not more than two members to the panchayat court by nomination from any one or more of the communities which are

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[1] These words were inserted by section 7 of the Madras Village Courts (Amendment) Act, 1919 (Madras Act II of 1920).

[2] These words were substituted for the words "of the district subject to such rules as the Governor in Council may from time to time prescribe" by *ibid.*

[3] These words were inserted by section 8 (1), *ibid.*

[4] These words were substituted for the words "village munsif" by *ibid.*

[5] These words were substituted for the words "suspending or removing a village munsif" by section 8 (2), *ibid.*

[6] This section was substituted for the original section 9 by section 9, *ibid.*

[7] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[8] This sub-section was inserted by section 2 of the Madras Village Courts (Amendment) Act, 1935 (Madras Act XV of 1935).

in a minority in the area for which the court is established (for example, Muslims, Indian Christians and Depressed or backward classes) and which communities are not already represented on the court. Any member or members so appointed shall be in addition to the strength of the court as determined under sub-section (2).]

Term of members.

(4) Subject to such rules as may be made by the [1] [State Government] a member of a panchayat court shall hold office for a term of three years.

Election of president.

[2] [(5) (*a*) A panchayat court shall elect, according to the rules prescribed in that behalf, one of its members to be its president and another member to be its vice-president.

(*b*) The president may, by order in writing, delegate any of his functions to the vice-president :

Provided that he shall not delegate any functions which the panchayat court expressly forbids him to delegate.

(*c*) If the president is absent from the jurisdiction of the court or is incapacitated, his functions shall devolve on the vice-president.

(*d*) When the office of president is vacant, the vice-president shall exercise the functions of the president until a new president assumes office.

(*e*) Every sitting of the court shall be presided over by the president, and in his absence, by the vice-president if there is one. If there is no vice-president, or in the absence of both the president and the vice-president, the members present and constituting the court shall elect from among themselves a president for the purposes of that sitting.]

Quorum.

(6) Three members of a panchayat court shall constitute a quorum, and the decision of the majority present shall be the decision of the court :

Provided that in the case of equality of votes the president shall have [3] [and exercise] a casting vote.

State Government's power to disestablish panchayat courts.

(7) The [1] [State Government] may, by order notified in the District Gazette, disestablish any panchayat court.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] This sub-section was substituted for the original sub-section (5) by section 3 of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

[3] These words were inserted by section 3 (1) of and the Second Schedule to the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

(Chapter II.—Establishment and Constitution of Village Courts. Chapter III.—Jurisdiction, Res Judicata and Limitation.

Transfer of suits and civil proceedings.

[1][9-A. Where a village court is established under any of the provisions of section 6 or sub-section (1) of section 9 in any local area, in lieu of a village court or courts having jurisdiction over such area—

(*a*) all suits or civil proceedings pending in such court or courts shall be deemed to have been instituted or taken in the court newly established for such area ; and

(*b*) all decrees passed by such court or courts which have not been executed or are under execution shall be deemed to have been passed by the court so established.

Transfer of criminal cases and proceedings.

9-B. The provisions of section 9-A shall, so far as may be, apply to criminal cases or proceedings pending before a panchayat court or courts in lieu of which a panchayat court is newly established.]

Village karnam to assist munsif in keeping register of suits and record of proceedings.

10. The village munsif shall keep a register of suits preferred to the village court and shall write the proceedings of the court and it shall be the duty of the village karnam, if so required, to assist in keeping such register and in writing the proceedings of the court.

Village servant to serve summonses, etc.

11. It shall be the duty of the village servant usually employed in carrying messages to serve all summonses, notices and orders issued under this Act and to act under the orders of the village munsif in seizing, selling and delivering movable properties attached under this Act.

Collector may appoint any person in lieu of, or in addition to, village karnam and village servant.

12. It shall be competent to the Collector of the district, subject to the control of the [2] [State Government] to appoint any person in lieu of, or in addition to, the village karnam, or the village servant mentioned in section 11 to perform the duties prescribed by sections 10 and 11 respectively.

CHAPTER III.

JURISDICTION, RES JUDICATA AND LIMITATION.

Cognizance of suits by village courts.

[3] 13. The following are the suits which shall be cognizable by village courts (namely)—claims for money due on contract, or for [4][movable property] or for the value of such property,

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[1] Sections 9-A and 9-B were inserted by section 4 of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950)

[3] *See* also section 3 of the Madras Civil and Village Courts (Amendments) Acts, 1951 (Madras Act XVI of 1951).

[4] These words were substituted for the words "personal property" by section 5 of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

(Chapter III.—Jurisdiction, Res Judicata and Limitation.)

[1] [or for any tax, fee, or other sum due to a local authority], when the debt or demand does not exceed in amount or value the sum of [2] [rupees fifty] whether on balance of account or otherwise :

Provided that no action shall be brought in any such court— Proviso.

(1) on a balance of partnership account unless the balance shall have been struck by the parties or their agents ;

(2) for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will ;

(3) for rent for land unless such rent be due upon a written contract signed by the defendant ;

(4) by or against [3] [the Government] or public officers in their official capacity ;

(5) by and against minors or persons of unsound mind.

14. With the written consent of both parties executed before the court, a village court may hear and determine suits of the nature described in section 13, the amount or value of which shall not exceed Rs. 200. Jurisdiction up to Rs. 200 with consent.

15. Subject to the provisions contained in section 16, every suit brought under this Act shall be instituted in the [4] [village court] within the local limits of whose jurisdiction all the defendants at the time of the commencement of the suit reside, or carry on business, or personally work for gain. Court in which suit to be instituted.

[5] [**16.** (1)] No village munsif shall try any suit to which he is a party, or in which he is personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit. Every such suit or proceeding may be instituted in the [6] [village court] of any village immediately adjoining. Suit in which village munsif is personally interested.

[5] [(2) When any member of a panchayat court is a party to, or personally interested in, any suit or proceeding before Suit in which a member is personally interested.

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[1] These words were inserted by section 2 of the Madras Village Courts (Amendment) Act, 1940 (Madras Act XVIII of 1940). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[2] These words were substituted for the words "rupees twenty" by section 10 of the Madras Village Courts (Amendment) Act, 1919 (Madras Act II of 1920).

[3] The words "the Crown" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[4] These words were substituted for the words "court of the village munsif" by section 11 of the Madras Village Courts (Amendment) Act, 1919 (Madras Act II of 1920).

[5] Section 16 was renumbered as sub-section (1) of section 16 and new sub-section (2) was inserted by section 12, *ibid.*

[6] These words were substituted for the words "court of the munsif" by *ibid.*

such court, he shall withdraw from the court during the hearing of such suit or proceeding and shall take no part in its determination.]

Res judicata.

17. No village court shall try any suit brought on a cause of action, which has been heard and determined by a court of competent jurisdiction, in a former suit, between the same parties, or those under whom they claim.

Suit to include whole claim.

18. Every suit instituted in a villge court shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of such court.

Relinquishment of part of claim.

If a plaintiff omit to sue in respect of, or intentionally relinquish, any portion of his claim, he shall be precluded from bringing a fresh suit for or in respect of the portion so omitted or relinquished.

Incidental determination of matters not cognizable by village courts.

19. If in the decision of a suit cognizable by a village court [1][* *], it becomes necessary to decide incidentally any matter in dispute between the parties to the suit, concerning title to immovable property, or the legal character of either of them, or of those under whom they claim, or the existence of any contract or obligation, which if it had been the immediate subject matter of the suit, would not be cognizable under this Act by a village court, it shall be competent to the village court to decide such question of title, legal character, contract or obligation as far as may be necessary for the determination of such suit, but such decision shall not be evidence of such title, legal character, contract or obligation in any other action though between the same parties or their representatives.

Limitation.

20. The provisions of the Indian Limitation Act, 1877 [2], shall apply to suits and applications under this Act.

[3][* * * * * * * *]

Suit triable by a village court.

[4][**20-A.** (1) If a suit which is triable by a village court is instituted in the court of a District Munsif, he may, unless sufficient reasons exist to the contrary, transfer it to the village court.

Cost of suits tried by District Munsif.

(2) Where a District Munsif tries a suit which is triable by a village court and is of opinion that the suit ought to have been instituted in the village court, no costs shall be allowed to a successful plaintiff and a successful defendant shall be allowed his costs as between pleader and client.]

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[1] The words and figures "under sections 13 and 15" were omitted by Madras Act II of 1920, s. 13.

[2] *See* now the Indian Limitation Act, 1908.

[3] The proviso was omitted by Madras Act II of 1920, s. 14.

[4] This section was inserted by *ibid*, s. 15.

(*Chapter III.—Jurisdiction, Res Judicata and Limitation. Chapter IV.—Of the Institution and Frame of Suits, Recognized Agents, the Issue and Service of Summons on Parties, Adjournments and Consequences of Non-appearance.*)

Transfer of suits.

[1][21. (1) The District Munsif may, on the application of any of the parties, withdraw any suit from a village court and try the suit himself, as if it had been instituted in his court, or transfer it for trial to any other village court within the local limits of his jurisdiction: Provided that any party applying to have a suit withdrawn from a village court and tried by the District Munsif shall, before any such order of transfer is made, pay the amount of the fees payable under the Court Fees Act, 1870, in respect thereof.

Central Act VII of 1870.

Stay of proceedings by District Munsif.

[(2) Pending disposal of any application under sub-section (1) the District Munsif may order a stay of proceedings in the village court.]

CHAPTER IV.

OF THE INSTITUTION AND FRAME OF SUITS, RECOGNIZED AGENTS, THE ISSUE AND SERVICE OF SUMMONS ON PARTIES, ADJOURNMENTS AND CONSEQUENCES OF NON-APPEARANCE.

Suit to be commenced by plaint.

22. Every suit under this Act shall be instituted by presenting a plaint to the village munsif together with as many copies thereof as there are defendants. One copy shall be delivered or affixed as hereinafter provided together with the copy of the summons.

Particulars to be contained in plaint.

23. The plaint shall be written in the language of the village and signed by the plaintiff, or, in his absence, by an agent duly authorized by him, and it shall contain the following particulars :—

(*a*) The name, description and residence of the plaintiff and defendant.

(*b*) A concise statement of the cause of action and when it arose.

(*c*) The relief prayed for, and the total amount or value of the claim.

Appearance in person or by agent.

24. [2][No legal practitioner, whether qualified or unqualified, shall be allowed to appear before a village court on behalf of any party to a suit or proceeding but any party may authorize a servant, gumasta, partner, relation or friend to

[1] Original section 21 was numbered as sub-section (1) of section 21 and new sub-section (2) was inserted by Madras Act II of 1920, s. 16.

[2] These words were substituted for the words " Any party to any suit before a village court may appoint by vakalatnama any person to appear and plead for him, but " by *ibid*, s. 17.

(Chapter IV.—Of the Institution and Frame of Suits, Recognized, Agents, the Issue and Service of Summons on Parties) Adjournments and Consequences of Non-appearance.

appear and plead for him: Provided that] it shall be competent to the village munsif, whenever he thinks it necessary for the ends of justice, to order the personal attendance of any of the parties to the suit; and if the party so ordered does not attend in person, he shall be subject to the same consequences as if he did not appear either in person or by an agent.

Summons to defendant how served.

25. When the plaint has been duly presented, the village munsif shall cause the same to be registered, and shall, by a summons in writing, require the defendant to appear and answer the claim on a specified day. The summons shall be served on the defendant personally [1] [and his signature taken thereon] and a copy thereof delivered to him by the village servant usually employed in carrying messages, or by any other person appointed by the Collector under section 12.

Mode of service when defendant evades service.

26. If the village munsif is satisfied that the defendant is evading service of the summons, [2] [or has refused to affix his signature to the summons], the village munsif may order that it be served upon, and a copy thereof delivered to, an adult male member of the family of the defendant residing with him, or that a copy thereof be affixed upon some conspicuous part of the house in which he generally resides.

Mode of service upon defendant beyond local jurisdiction of court.

27. Whenever it may be necessary to serve the summons upon a defendant beyond the local jurisdiction of the village court, it shall be forwarded to the District Munsif, who shall cause it to be served as if it had been a summons issued by himself, and shall then return it to the village court together with a report of such service. Such report shall be *prima facie* evidence of the facts stated therein.

Procedure if defendant does not appear.

28. If a defendant does not appear in person or by agent on the day fixed, and it be proved that the sum mons was duly served, the village court may proceed *ex parte*.

If it is not proved that the summons was duly served, the village munsif shall issue a fresh summons.

Defendant can claim two days' notice of suit.

Every defendant may claim two clear days' notice of suit, and if the summons was not served in sufficient time to enable him to answer on the day fixed, the hearing shall be adjourned to a future day, of which written notice shall be given to defendant.

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[1] These words were inserted by Madras Act II of 1920, s. 18.
[2] These words were inserted by *ibid*, s, 19.

(Chapter IV.— Of the Institution and Frame of Suits, Recognized Agents, the Issue and Service of Summons on Parties, Adjournments and Consequences of Non-appearance.)

Process to be served at expense of party issuing.

29. Every summons served under this Act otherwise than by the village servant shall be served at the expense of the party on whose behalf it is issued [1] [* * * *].

Procedure where plaintiff does not appear and defendant does not admit claim or where summons is not served through plaintiff's default.

30. If on the day fixed for the defendant to appear—

(1) neither party appears, or

(2) the plaintiff does not appear and the defendant appears and does not admit the claim, or

(3) the summons has not been served owing to the plaintiff's default and the defendant does not appear, the suit shall be dismissed unless the village court otherwise directs.

Procedure where plaintiff does not appear and defendant admits claim.

31. If the plaintiff does not appear, but the defendant appears and admits the claim wholly or in part, the village court shall pass judgment against defendant in accordance with such admission, provided that when only a part of the claim is admitted, the court may adjourn the hearing to a future day.

Setting aside order under section 30 or 31 on cause shown.

32. Whenever a suit is dismissed under clause (1) or clause (3) of section 30, the plaintiff may [2] [subject to the law of limitation] bring a fresh suit; and if within thirty days from the date of an order under clause (2) of section 30 dismissing the suit, or of a decree passed for only a part of the claim under section 31, the plaintiff satisfies the village court that he was prevented by any sufficient cause from appearing the court shall set aside the dismissal or the decree, and shall appoint a day for proceeding with the suit.

Setting aside ex parte decree against defendant.

33. Any defendant against whom a decree has been passed *ex parte* may, within thirty days from the date of executing any process for its enforcement, apply to the village court to set it aside; and if satisfied that the summons or notice was not duly served, or that the defendant was prevented by any sufficient cause from appearing, the court shall set aside the decree and shall appoint a day for proceeding with the suit.

No decree to be set aside without notice to opposite party.

34. No decree shall be set aside on any application under section 32 or section 33 unless notice has been served on the opposite party.

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[1] Certain words were omitted by Madras Act II of 1920, s. 20.

[2] These words were inserted by *ibid*, s. 21.

(Chapter V.—Of the Hearing, Withdrawal or Compromise of Suits and of the Summoning and Examination of Witnesses.)

CHAPTER V.

Of the Hearing. Withdrawal or Compromise of Suits and of the Summoning and Examination of Witnesses.

Procedure on appearance of both parties.

35. When the defendant appears, the court shall ascertain from him whether he admits the claim made in the plaint. If he admits the claim or if the suit be compromised, such admission or compromise shall be recorded in writing and signed by the parties, and the court shall pass a decree in accordance therewith. If he does not admit the claim, he shall be required to state his objections either orally or in writing, and the court may, if it thinks fit, adjourn the case to enable him to file a written statement.

Withdrawal of suit.

36. If the plaintff wishes to withdraw a suit, he shall signify the same in writing to the court, which shall strike the suit off the file and no fresh suit shall be brought on the same cause of action.

When suit may be settled by oath.

37. If either party is willing to let the suit be settled by the oath of the other, and such other party assents and takes the oath, the court shall give judgment according to such oath.

Set-off.

38. The defendant may set-off any amount legally due to him by the plai ntiff for which he could bring a suit in a village court. If such set-off is established, the decree shall be for any sum which finally appears to be due to either party.

Witnesses not present to be summoned.

39. When the defendants' statement has been made, the court shall proceed to examine the truth of the claim, and shall summon the witnesses cited by either party who are not present.

Summons to witnesses how served.

40. Any witness residing within the jurisdiction of the village court may be summoned verbally or in writing. Any witness residing within five miles beyond the court's jurisdiction may be summoned in writing, and such summons shall be served through the village munsif within whose jurisdiction he resides. If any witness resides more than five miles beyond the jurisdiction, the court may call on the parties to frame written interrogatories and shall forward such interrogatories, with a letter, to the villge munsif within whose jurisdiction the witness resides, and such munsif shall forthwith summon and examine the witness upon the interrogatories, and shall return his answers to the court in which the suit is pending.

Interrogatories when to issue.

Sumons to appear and give evidence or pronuce documents.

41. A summons may direct the party summoned either to appear and give evidence or to produce or cause the production of a document.

(*Chapter V.—Of the Hearing, Withdrawal or Compromise of Suits and of the Summoning and Examination of Witnesses. Chapter VI.—Of the Decree and its Execution.*)

Exemption of certain women and other persons from personal appearance.

42. Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, persons exempted from personal appearance in court, and any person who, by reason of sickness or bodily infirmity, cannot attend without serious inconvenience, shall not be summoned; but when the evidence of any such person is necessary, the village court shall examine such person at his or her residence.

Examination of witnesses.

43. Witnesses shall be examined on oath or solemn affirmation, but it shall not be necessary for a village court to take down depositions of witnesses in writing.

Adjournment in view to amicable settlement or for other cause.

44. If it appears likely that the parties will settle the matter amicably, or for any other sufficient cause, the village court may adjourn the hearing to a day to be fixed in the presence of the parties, or in cases in which the defendant does not appear, in the presence of the plaintiff. If, on such day, the parties or any of them fail to appear, the village court may proceed to dispose of the suit in one of the modes prescribed in that behalf by sections 30 and 31, or make such other order as it thinks fit.

CHAPTER VI.

Of the Decree and its Execution.

On conclusion of hearing, court to pass decree.

45. When the parties or their agents have been heard, and the evidence on both sides considered, the village court shall pass such decree as may seem just, equitable, and according to good conscience.

Contents of decree.

46. The decree shall contain the number of the suit, the names of the parties, the particulars of the claim, the names of the witnesses examined, the titles of the exhibits read, the decision thereon, and the reasons for such decision. It shall specify the sum of money adjudged, the movable property to be delivered, the sum to be paid in default of delivery, and the amount of costs and by what parties and in what proportions such costs shall be paid.

The decree shall be dated on the day on which it is passed, and signed by the village munsif. When the suit has been heard by a [1] [panchayat court], the decree shall be signed by the members of such [1] [panchayat court] concurring therewith. [2] [A copy of the decree shall then be delivered to each party in the prescribed manner.]

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[1] These words were substituted for the word "bench" by Madras Act II of 1920, s. 5.

[2] These words were substituted for the words "Each party shall be entitled to receive a copy of the decree upon application" by *ibid*, s. 22.

(*Chapter VI.—Of the Decree a nd its Execution.*)

Decree may award interest or order payment by instalments.

47. In suits for money the village court may decree interest on the sum decreed not exceeding twelve per cent per annum from date of suit till date of payment.

When a village court decrees the payment of a sum of money, it may direct that it be paid by instalments, with or without interest at the above rate.

Court by which decree may be executed.

48. The decree shall be executed by the village court which passed it or by a village court or District Munsif to whom it is sent for execution under the provisions hereinafter contained.

Decree for specific movable how executed.

49. If the decree be for any specific movable, it may be enforced by the seizure of the property, and its delivery to the decree-holder. If the seizure of the property be not practicable, the decree shall be executed by enforcing payment of the sum decreed as an alternative.

Payment of money under a decree or other adjustment to be made or recorded in presence of munsif.

50. All money payable under a decree passed by a village court shall be paid to the decree-holder, or his agent specially authorized in writing, in the presence of the village munsif whose duty it is to execute the decree; but if the decree is otherwise adjusted to the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing, and signed by him or his agent in the presence of, and attested by, such village munsif.

Such payment or adjustment shall be endorsed by the village munsif on the decree, and recorded in the register of suits mentioned in section 10.

No payment under a decree, and no adjustment of a decree in whole or in part, shall be recognized unless it has been made or recorded in the manner prescribed by this section, or in the court of the District Munsif.

Judgment-debtor not to be arrested, nor immovable property attached.

51. Subject to the provisions of sections 66 and 67, no judgment-debter shall be arrested and no immovable property attached in execution of a decree of a village court.

Attachment of movable property.

52. On the application of the decree-holder, [1] [the village court, or in the case of a panchayat court, its president or any other member of the court to whom the president may delegate his power in this behalf, shall attach any movable property within the jurisdiction of the court,] belonging to

[1] These words were substituted for the words " the village court shall attach any movable property within his jurisdiction " by section 3 of the Madras Village Courts (Amendment) Act, 1940 (Madras Act XVIII of 1940). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

the judgment-debtor pointed out by the decree-holder, to the value of the sum payable under the decree, [1] [provided that no property shall be liable to such attachment which is exempt from attachment under section 60 of the Code of Civil Procedure, 1908].

Central Act V of 1908.

53. If the property be in the possession of the judgment-debtor, it shall be attached by actual seizure, and the village munsif shall provide for its safe custody. It may be left in the custody of the judgment-debtor, upon sufficient security being given in writing for its production when required. On default the decree may be executed against the surety to the value of the property not produced.

How made if in possession of judgment-debtor.

[2] [**53-A.** Where the crops or ungathered products of any land are attached under section 53, the village court may cause them to be sold when fit for reaping or gathering, or at its option may cause them to be reaped or gathered in due season and stored in proper places until sold. In the latter case, the expense of reaping or gathering and storing such crops or products shall be defrayed by the judgment-debtor when he redeems the property or from the proceeds of the sale in the event of its being sold.]

Mode of dealing with crops or ungathered products after attachment.

54. If the property be not in the possession of the judgment-debtor, the attachment shall be made by a written order prohibiting the person in possession of the property from giving it over to the judgment-debtor.

How made if not in possession of judgment-debtor.

55. Debts and moneys due to the judgment-debtor shall be attached by a written order prohibiting the judgment-debtor from recovering the debt or receiving the sum of money, and the debtor from making payment thereof until the further order of the village court. Nothing in this section shall be held to authorize a village court to attach or sell a debt charged on immovable property.

Debts how attached.

56. When an attachment has been made by actual seizure, or by a written order, any private alienation of the property attached, whether by sale, gift, pledge or otherwise, and any payment of the debt to the judgment-debtor, during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

Private alienation of property after attachment void.

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[1] This proviso was substituted for the original proviso by Madras Act II of 1920, s. 23.

[2] This section was inserted by section 6 of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

(*Chapter VI.—Of the Decree and its Execution.*)

Investigation of claims to attached property.

57. If any claim be preferred to property attached in execution of a decree, the village court shall investigate the claim and if it appears that the judgment-debtor has no saleable interest therein, such property shall be released from attachment.

Property to be sold not less than fifteen days after attachment, and sale to be proclaimed.

58. As soon as possible after attachment, the village court shall fix a day not less than fifteen days from the date of attachment, for the sale of the property attached, and shall cause written proclamation of the intended sale to be fixed [outside the court,] and such sale shall be further proclaimed by beat of drum previous thereto :

Proviso.

Provided that (1) with the consent in writing of the judgment-debtor, or (2) when the property seized is subject to speedy and natural decay, or (3) when the expense of keeping it in custody may exceed its value, the court may, after giving due notice by beat of drum, sell the attached property at any time within fifteen days from the date of attachment. In such case the court shall hold the sale-proceeds subject to the provisions hereinafter made for payment of moneys attached in execution of decrees.

Procedure in sale.

59. On the day fixed for the sale, the property shall be put up for sale by public auction in the presence of the village munsif, and sold to the highest bidder. The price shall be paid without delay, and in default the property shall again be put up to sale.

On payment of the purchase money, the court shall grant a receipt for the same, and the sale shall become absolute.

Any loss on resale shall, at the instance of either the judgment-creditor or judgment-debtor, be recoverable from the defaulter as if a decree had been passed against him for the sale.

Power to adjourn sale.

60. Any sale advertised under this Act may at the discretion of the court be adjourned to a specified day, public notice thereof being given in the manner prescribed by section 58.

Village munsif and other officers not to bid for or buy property sold.

61. No village munsif or other officer having any duty to perform in connection with any sale under this Act shall, either directly or indirectly, bid for or acquire any interest in any property sold at such sale.

Stoppage of sale on tender of debt and costs.

62. Every sale of property under this Act shall be stopped if, before the lot is knocked down, the amount due under the decree and the costs attending the sale are tendered to the village munsif.

Division of precieds of sale.

63. Out of moneys realized in execution, the cost of execution shall first be defrayed and then the amount due to the

[1] These words were substituted for the words " out side his Court. " by section 3(1) of. and the second schedule to the Madras Repealing and Amending Act, 1951 Madras Act XIV of 1951).

decree-holder. Any surplus which may remain shall be paid to the judgment-debtor.

Property actually seized to be delivered to purchaser.

64. When the property sold is one of which actual seizure has been made, the property shall be delivered to the purchaser.

In other cases how property delivered to purchaser.

65. When the property sold is in the possession of any person other than the judgment-debtor, or is a debt due by any person to the judgment-debtor, delivery thereof to the purchaser shall be made by a written notice to such person, prohibiting him from delivering possession of the property or paying the debt to any person except the purchaser, and whatever right the judgment-debtor had in such property or debt at the time of attachment shall vest in the purchaser.

Transmission of decree and execution of transmitted decree.

[1][66. (1) Any decree passed by a village court may, on the application of the decree-holder, be transmitted for execution to the District Munsif, who may

(*a*) execute the decree as if it were a decree passed by himself; or

(*b*) transmit it for execution to the court of any other village within his jurisdiction in which the defendant is represented to have movable property; or

(*c*) transmit it to the court of any other District Munsif within whose jurisdiction the defendant is represented to reside or to have property.

(2) The District Munsif to whom a decree has been transmitted under clause (*c*) of sub-section (1) may execute the decree as if it were a decree passed by himself or transmit it for execution to the court of any village within his jurisdiction in which the defendant is represented to have movable property.

(3) The village court to which the decree is transmitted under clause (*b*) of sub-section (1) or sub-section (2) shall proceed as if the decree was passed by itself.]

District Munsif may withdraw execution of any decree.

67. It shall be competent to the District Munsif to withdraw the execution of any decree from any village court, and to execute it himself, as if it were a decree passed by himself.

Central Act V of 1908.

Orders of the District Munsif relating to attachment or sale of movable property not appealable.

[2][67-A. Notwithstanding anything contained in the Code of Civil Procedure, 1908, no appeal shall lie from any order made by a District Munsif relating to the attachment or sale of movable property in execution of any decree passed by a village court.]

[1] This section was substituted for the original section 66 by section 2 of the Madras Village Courts (Amendment) Act, 1929 (Madras Act XV of 1929).

[2] Section 67-A was inserted by section 3, *ibid.*

CHAPTER VII.

MISCELLANEOUS.

If on death of party to suit application is made, legal representative of deceased may be entered on record.

68. If a plaintiff or a defendant die before decree is passed in the suit, the name of his legal representative may be entered in his place on the record, on the application of the opposite party or of such legal representative, but no decree shall be passed against the legal representative of a deceased defendant beyond the value of the assets derived from him and not duly accounted for.

If no application is made, suit to be dismissed.

69. If no such application be made within sixty days from the date of the death of the plaintiff or defendant, the suit shall be dismissed, and no fresh suit shall be allowed to be brought on the same cause of action.

If more than one plaintiff or defendant, suit to proceed at instance of or against survivor.

70. If there be more plaintiffs or defendants than one, and any of them die, and his representative is not joined as aforesaid, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants.

If decree-holder die, his legal representative may be substituted.

71. If a decree-holder die before the decree has been fully executed, his legal representative may apply to the village court to substitute his name as the decree-holder in the room of the deceased, and if the court be satisfied, after giving notice to the judgment-debtor, that the applicant is the legal representative of the deceased, it shall substitute his name on the record as the decree-holder.

If judgment debtor die, decree may be executed against his legal representative.

72. If a judgment-debtor die before the decree has been fully executed, it may be executed on the application of the decree-holder against the legal representative of the judgment-debtor, to the extent of assets derived from him and not duly accounted for.

Revision by District Munsif of village court's proceedings.

73. The District Munsif may, on a petition being presented within sixty days from the date of any decree or order of a village court by any party deeming himself aggrieved by such decree or order, set aside such decree or order on the ground—

of corruption, gross partiality or misconduct of the village court ; or

of its having exercised a jurisdiction not vested in it by law, or otherwise acted illegally or with material irregularity ; or

that the decree or order is clearly unjust [1][* * *] and may pass such other decree or order as he thinks fit;

[1] The words " or contrary to law " were omitted by Madras Act II of 1920, s. 24.

provided that no decree or order of a village court shall be set aside without notice to the opposite party. Pending disposal of any such petition, the District Munsif may stay execution of the decree or order.

A petition under this section may be entertained after sixty days by the District Munsif if he is satisfied with the cause shown for the delay.

Except as provided in this section, every decree and order of a village court shall be final.

District Munsif may, and in certain cases shall, report to District Judge.

74. Whenever under section 73 the District Munsif sets aside a decree or order, he may report the case to the District Judge, and shall report every case in which he sets aside a decree or order on the ground of corruption, gross partiality, or misconduct.

Power of High Court to prescribe forms and of District Judge and District Munsif to inspect records.

75. The High Court may, from time to time, prescribe forms for use in village courts and the returns which they shall be bound to submit. The District Judge or the District Munsif may at any time call for and inspect the registers and records of village courts.

[1] [CHAPTER VIII.

CRIMINAL JURISDICTION.

State Government may empower panchayat courts to take cognizance of and try certain offences.

76. (1) The [2] [State Government] may, by order notified in the District Gazette, empower a panchayat court to take cognizance of and try all or any of the following offences when committed within the local limits of its jurisdiction :—

Central Act XLV of 1860.

(*a*) Offences punishable under sections 160, 277, 283, 290, 323, 334, 352, 358, 504 and 510 of the Indian Penal Code.

Central Act XLV of 1860.

(*b*) Offences punishable under section 379 of the Indian Penal Code in respect of property not exceeding ten rupees in value, when the offender has not been previously convicted of theft.

Central Act XLV of 1860.

(*c*) Offences punishable under section 426 of the Indian Penal Code when the loss or damage caused thereby does not exceed ten rupees.

Madras Act III of 1889.

(*d*) Offences punishable under section 3, clauses (9), (11) and (12) of the Towns Nuisances Act, 1889.

Central Act XLV of 1860.

(*e*) Any other specified offence under the Indian Penal Code or any special or local law which is punishable with fine only or with imprisonment for a term not exceeding six months only or with both.

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[1] Chapter VIII was inserted by Madras Act II of 1920, s. 26.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(*Chapter VIII.—Criminal Jurisdiction.*)

Provided that in respect of offences mentioned in clauses (*b*) and (*c*) the [1] [State Government] may extend the jurisdiction of a panchayat court to cases where the value of the property stolen or the loss or damage caused does not exceed twenty rupees.

Explanation.—The offences mentioned in this section include abetments of such offences.

Imposition and limit of fine.

[2] [(2) If a panchayat court finds an accused person guilty of any of the above offences, it may impose on him—

(*a*) a fine not exceeding ten rupees in respect of an offence under section 510 of the Indian Penal Code, and

(*b*) a fine not exceeding fifteen rupees in respect of any of the other offences :] Central Act XLV of 1860.

Provided that in case of conviction of an offence under clauses (*b*) and (*c*) of sub-section (1) the fine may extend to twice the value of the property stolen or the amount of the damage caused.

Payment of fine and punishment for default.

(3) The panchayat court may allow a reasonable time for the payment of the fine, or may order that the fine shall be paid by instalments ; but if the fine is not paid as directed, the court shall recover it in the same manner as if it were due under a decree under this Act. If in any case it appears to the court that the fine imposed cannot be recovered as aforesaid, it shall submit the case to the Subdivisional Magistrate, who may award such term of imprisonment as is authorized by law in case of such default ; provided that the term so awarded shall in no case exceed one week.

Procedure in criminal trials.

(4) Subject to such rules as the [1] [State Government] may make in this behalf, the procedure to be adopted by panchayat courts in criminal trials shall be as follows :—

The court need not record the evidence of the witnesses or frame a formal charge but it shall enter in the prescribed form the following particulars :—

(*a*) The serial number ;

(*b*) The date of the commission of the offence ;

(*c*) The date of the report or complaint ;

(*d*) The names, parentage and residences of the complainant, the accused and the witnesses examined ;

(*e*) The offence complained of and the offence (if any) proved, and in cases coming under clauses (*b*) and (*c*) of sub-

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] This was substituted for the first paragraph of sub-section (2) of section 76 by section 7 (i) of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

section (1) the value of the property stolen or the amount of the loss or damage caused;

(*f*) The plea of the accused and his statement, if any;

(*g*) The finding and, in the case of a conviction, a brief statement of the reasons therefor;

(*h*) The amount of fine imposed; and

(*i*) The date on which the proceedings terminated;

No legal practitioner to appear for complainant or accused.

(5) Except in accordance with rules framed by the [1] [State Government] no legal practitioner, whether qualified, or unqualified, shall be allowed to appear either for the complainant or for the accused.

When case may be transferred from panchayat court.

(6) If at any stage of the proceedings it appears to the court that the case is one which ought to be tried by a magistrate or if at the close of the trial the court is of opinion that the accused is guilty and that he ought to receive a punishment different in kind from, or more severe than, that which it is empowered to inflict, it shall submit the case to the Subdivisional Magistrate, who may transfer the case to his own court or to the court of a magistrate subordinate to him.

[2] [(7) (*a*)] The District or Subdivisional Magistrate may, whenever he considers it necessary in the interests of justice, transfer any case pending before a panchayat court to his own court or to the court of any magistrate subordinate to himself or to any other panchayat court within his jurisdiction.

[2] [(*b*) Where however a panchayat court is disestablished and no new panchayat court is constituted in lieu thereof, the District or Subdivisional Magistrate shall transfer all criminal cases and proceedings before such court to his own court or to the court of any Magistrate subordinate to himself or to any panchayat court within his jurisdiction.]

Appeal.

(8) No appeal shall lie against any sentence or order passed by a panchayat court under this section, but the District Magistrate or Subdivisional Magistrate may set aside any conviction on the ground of corruption, gross partiality or misconduct on the part of the court, or on the ground that there has been a gross miscarriage of justice.

Transfer of cases cognizable by panchayat courts.

(9) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, a magistrate taking cognizance upon

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] Original sub-section (7) of section 76 was lettered as clause (*a*) of sub-section (7) and new clause (*b*) was added by section 7 (ii) of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

(Chapter VIII.—Criminal Jurisdiction. Chapter IX.—Power to make Rules).

a complaint or police report of an offence cognizable by a panchayat court may, unless sufficient reasons exist to the contrary, transfer the case to the panchayat court having jurisdiction.

Applicability of certain section of the Code of Criminal Procedure to court.

77. (1) The provisions of [1] [sections 403, 476, 476-A and 476-B] of the Code of Criminal Procedure, 1898, shall apply to a village court.

(2) Save as provided in sub-section (1) nothing contained in the said Code shall apply to a village court.

[2] CHAPTER IX.

POWER TO MAKE RULES.

78. (1) The [3] [State Government] may make rules to carry out all or any of the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

(*a*) regulate the appointments of village munsifs under section 7,

(*b*) regulate the appointments or elections of presidents, [4] [vice-presidents] and other members of the panchayat courts and prescribe their qualifications and disqualifications,

(*c*) regulate the meetings and proceedings of panchayat courts and the attendance of members thereof,

(*d*) prescribe the manner in which panchayat courts may take cognizance of offences and the procedure to be followed by them in the trial of offences,

(*e*) provide for the presentation, withdrawal and dismissal of complaints and the compounding of offences and prescribe the persons who may conduct a prosecution or represent the accused,

(*f*) provide for the summoning and attendance of the accused and for the summoning and examination of witnesses in criminal cases,

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[1] These words, figures and letters were substituted for the word and figures "section 403" by section 8 of the Madras village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

[2] Chapter IX was inserted by Madras Act II of 1920, s. 26.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] This word was inserted by section 9 of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

(*g*) prescribe as to criminal cases the forms of all registers, returns and processes, the manner in which such registers shall be maintained, the dates on which such returns shall be made and the officers to whom they shall be sent,

(*h*) provide for the service of process, the execution of decrees and the recovery of fines,

(*i*) provide for the receipt and custody of all documents and records by or on behalf of panchayat courts and for the grant of copies of decrees and other records, and

(*j*) provide for the levy of fees for the service of process, the execution of decrees and the grant of copies.

(3) All rules made under this section shall be published in the [1][Official Gazette] and upon such publication shall have effect as if enacted in this Act.

[2][* * * *]

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[1] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[2] The Schedule was repealed by section 3 (2) of the Repealing and Amending Act, 1901 (Central Act XI of 1901).

THE MADRAS TOWNS NUISANCES ACT, 1889.

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MADRAS ACT No. III OF 1889.[1]

[THE MADRAS TOWNS NUISANCES ACT, 1889.]

[16*th November* 1889 ; 23*rd December* 1889.]

An Act to provide for the Prevention and Control of Nuisances outside the Town of Madras.

Preamble.

WHEREAS it is expedient to amend Act XXIV of 1859 [2] and to consolidate and improve the law relating to nuisances in places outside the Town of Madras : It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the [3] [Madras] Towns Nuisances Act, 1889.

Local extent.

(2) [4] [Section 1 of this Act extends *] to the whole of the Presidency of Fort St. George. The remaining sections extend to all towns in the said Presidency which may have been or may hereafter be declared to be municipalities under Madras Act IV of 1884,[5] or other Act of the same nature for the time being in force ; and the [6] [State Government] may from time to time by notification in the [7] [Official Gazette], extend such sections or any part or parts thereof permanently or for a time or for specified occasions only, from such date as may be specified in the notification, to any other local area in the Presidency of Fort St. George, outside the limits of the Town of Madras, and may cancel or modify any such notification.

2. [*Enactments repealed.*] *Repealed by the Repealing and Amending Act*, 1901 (*Central Act XI of* 1901).

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 12th February 1889, page 3, for Report of the Select Committee, *see ibid*, dated 8th October 1889, page 1 ; for Proceedings in Council, *see ibid*, dated 26th March 1889, page 2, and *ibid*, dated 12th November 1889, page 12.

The Act came into force on 1st July 1891.

[2] Short title, "The Madras District Police Act, 1859."

[3] This word was inserted by section 3(1) of, and the Second Schedule to, the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

[4] This expression was substituted for the expression "Sections 1 and 2 of this Act extend" by *ibid*.

[5] This Act has been repealed and re-enacted in the Madras District Municipalities Act, 1920 (Madras Act V of 1920).

[6] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[7] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

* The Madras Towns Nuisances Act, 1889 as amended by section 2 of the Madras Towns Nuisances (Amendment and Extension to Pudukkottai) Act, 1951 (Madras Act XXXIV of 1951), was extended to, and will be in force, in the merged territory of Pudukkottai by virtue of section 3 of latter Act.

Penalty for certain offences in public places.

3. Whoever in any [1] [public] place commits any of the following offences shall be liable on conviction to fine not exceeding fifty rupees or to imprisonment of either description not exceeding eight days :—

Rash and negligent driving.

(1) Whoever drives or rides any animal, or drives, drags or pushes any vehicle, in a rash or negligent manner.

Causing obstruction by negligence in driving cattle.

(2) Whoever by negligence or ill-usage in driving cattle causes any mischief or obstruction by such cattle.

Driving, etc., otherwise than on near or left side of the road.

(3) Whoever without reasonable excuse and so as to cause danger or obstruction to any person shall drive, drag or push any vehicle otherwise than on the near or left side of the road.

Leaving vehicle or cattle without due control.

(4) Whoever, being in charge of any vehicle or cattle, leaves it or them at such a distance as not to have the same under due control.

Obstructing thoroughfare.

(5) Whoever causes any vehicle to remain or stand longer than may be necessary for loading or unloading except at places appointed for the purpose, or fastens any horse or other animal so as to cause obstruction or in any way wilfully obstructs or causes obstruction to the free passage of any thoroughfare.

Exposing goods so as to cause obstruction.

(6) Whoever exposes goods for sale so as to cause obstruction.

Letting loose horses or ferocious dogs.

(7) Whoever negligently lets loose any horse or suffers any ferocious dog to be at large without a muzzle or sets on or urges any dog or other animal to attack, worry or put in fear any person or cattle.

[2] [(8) *Repealed.*]

Depositing rubbish, stones, etc.

(9) Whoever without reasonable excuse throws or lays down any dirt, filth, rubbish, or any stones or building materials.

Unauthorized use of sound amplifiers in public

[3] [(10) Whoever uses any sound amplifier except at such times and places and subject to such conditions as shall, from

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[1] These words were substituted for the words "public street, road, thoroughfare or place of public resort" by section 3 (i) of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941). This was permanently re-enacted by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[2] Clause (8) was repealed by section 14 of the Madras Prevention of Begging Act, 1945 (Madras Act XIII of 1945). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[3] The original clause (10) was repealed by section 14 of the Madras Gaming Act, 1930 (Madras Act III of 1930) and the present clause was inserted by section 3 of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941), re-enacted permanently by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

time to time, be allowed by an officer of the Police Department [1] (not below the rank of a Deputy Superintendent of Police.)]

(11) Whoever wilfully and indecently exposes his person or commits a nuisance by easing himself, and whoever, having the care or custody of any child under seven years of age, omits to prevent such child from committing a nuisance as aforesaid. Committing nuisances in public place.

(12) Whoever is found drunk and incapable of taking care of himself, or is guilty of any riotous, disorderly or indecent behaviour. Drunken or riotous disorderly or indecent behaviour.

[2] [*Explanation.*—In this section "public place" means a place (including a road, street or way, whether a thoroughfare or not, and a landing place) to which the public are granted access or have a right to resort, or over which they have a right to pass.]

[3] [* * * * *]

4. Whoever neglects to fence in or protect any well, tank or other dangerous place or structure, or, Neglecting to fence in well, tank, etc.

whoever causes any offensive matter to run from any house, factory, dung-heap or the like into the street— Causing offensive matter to run from house, etc.

shall be liable on conviction to fine not exceeding fifty rupees or to imprisonment of either description which may extend to one month.

5. Whoever cruelly beats, ill-treats, tortures, or drives, rides or otherwise uses any animal in an unfit state to be so driven, ridden or used, or causes any animal to be cruelly beaten, ill-treated, tortured, or to be driven, ridden or used when unfit to be driven, ridden or used, shall be liable on conviction to fine not exceeding fifty rupees, or to imprisonment of either description not exceeding one month, or to both. Penalty for cruelty to animals.

[4] [**6.** *Repealed.*]

[4] [**7.** *Repealed.*]

[5] [**8.** (1)] Any police officer may arrest without a warrant any person committing in his view any offence made punishable by this Act. Power to arrest without warrant on view of offence.

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[1] These words were substituted for the words "not below the rank of a District Superintendent of Police" by section 2 of the Madras Towns Nuisances (Amendment and Extension to Pudukkottai) Act, 1951 (Madras Act XXXIV of 1951).

[2] This Explanation was added by section 3 of the Madras City Police and Towns Nuisances (Amendment) Act, 1941 (Madras Act XXIII of 1941), re-enacted permanently by section 2 (1) of, and the First Schedule to the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[3] This paragraph was repealed by section 14 of the Madras Gaming Act, 1930 (Madras Act III of 1930).

[4] These sections were repealed by *ibid.*

[5] Original section 8 was renumbered as sub-section (1) of section 8 by section 3 of the Madras City Police, Towns Nuisances and Prevention of Cruelty to Animals (Amendment) Act, 1942 (Madras Act XX of 1942), re-enacted permanently with specified modifications by section 2 (2) of, and the Second Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[1] [(2) Any agent of the Society for the Prevention of Cruelty to Animals who is specially empowered by the [2] [State] Government in that behalf may arrest without a warrant any person committing in his view any offence punishable under section 5 ;) [3] * * * * *).]

[4] [(3) The agent shall have power to release any person so arrested on his executing a bond, with or without sureties, for his appearance before a Magistrate if and when required.]

[4] [(4) The provisions of the Code of Criminal Procedure, 1898, shall apply to any arrest made or bond taken under this section as if the arrest had been made, or the bond had been taken, under the said Code.] Central Act V of 1898.

[5] [9. *Repealed.*]

Destruction of stray dogs.

10. The District or Subdivisional Magistrate may from time to time cause to be notified by beat of drum or otherwise that dogs found straying within certain limits will be destroyed, and dogs found straying within such limits after such notification may be destroyed by any person in such manner as the District or Subdivisional Magistrate may from time to time direct.

Act to form part of District-Police Act.

11. Sections 3 and 4 of this Act shall be read with, and form part of, Act XXIV of 1859. [6]

[7] [* * *].

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[1] This sub-section was added by section 3 of the Madras City Police, Town Nuisances and Prevention of Cruelty to Animals (Amendment) Act, 1942 (Madras Act XX of 1942), re-enacted permanently with specified modifications by section 2 (2) of, and the second schedule to the Madras Re-enacting Act, 1949 (MadrasAct X of 1949).

[2] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

[3] The words "and the provisions of the Code of Criminal Procedure, 1898, shall apply to an arrest made by such agent as if it had been made by a Police officer" were omitted by the Second Schedule to the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[4] Sub-sections (3) and (4) were inserted by *ibid.*

[5] The section was repealed by section 14 of the Madras Gaming Act, 1930) Madras Act III of 1930).

[6] Short title, "The Madras District Police Act, 1859."

[7] The schedule appended to this Act was repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901). *See* the Third Schedule, Part III.

MADRAS ACT No. II OF 1890.[1]

[THE MADRAS CANALS AND PUBLIC FERRIES ACT, 1890.]

[1*st April* 1890 ; 9*th May* 1890.]

An Act to make better provision for the establishment of Canals and Public Ferries in the Presidency of Madras and for the management thereof.

WHEREAS it is expedient to make better provision for the establishment of canals and public ferries in the Presidency of Madras and for the management thereof ; It is enacted as follows :— Preamble.

1. This Act may be called the [2][Madras] Canals and Public Ferries Act, 1890. Short title and local extent.

It extends to the whole of the Presidency of Madras.

2. [*Repeal.*] *Rep. by the Repealing and Amending Act,* 1901 (*Central Act XI of* 1901).

3. In this Act " vessel " includes any ship, barge, boat, raft, timber, bamboos or floating materials propelled in any manner : Definitons.

[3] " channel " includes any waterway, whether natural or artificial :

" line of navigation " means any navigable channel, or series of connected navigable channels :

" canal " means a line of navigation declared to be subject to the provisions of this Act :

" ferry " means a place at which goods, animals or passengers are conveyed across a channel by means of vessels :

" public ferry " means a ferry declared to be subject to the provisions of [3] [sections 9 to 18 of this Act].

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 3rd December 1889, p. 3 ; for Report of the Select Committee, *ibid,* dated 25th February 1890, p. 1 ; for Proceedings in Council, *see ibid,* dated 28th January 1890, p. 2, and *ibid,* dated 1st April 1890, p. 3.

[2] This word was inserted by section 3 (1) of, and the Second Schedule to, the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

[3] These words and figures were substituted for the words " this Act " by section 2 of the Canals and Public Ferries (Amendment) Act, 1941 (Madras Act XX of 1941). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 948 (Madras Act VII of 1948).

Power to apply Act to any line of navigation.

4. The [1] [State Government] may, by notification in the [2] [Official Gazette], declare any line of navigation to be subject to the provisions of this Act from a date to be named in such notification, and may in like manner cancel or modify any such notification.

Vessels to be registered or licensed as directed by Government.

[3] **5.** All vessels using a canal shall be either licensed or registered as the [1] [State Government] may direct:

[4] [Provided that the [1] [State Government] may exempt from the operation of this section all or any vessels or classes of vessels using a canal or portion of a canal.]

Power to fix fees and rates of toll and to establish toll-stations.

6. The [1] [State Government] may from time to time—

(*a*) fix rates of fees payable for the licensing or registration of vessels;

(*b*) establish stations at which tolls shall be levied on vessels passing along a canal or on passengers, vehicles, animals or goods landed therefrom, and fix the rates of such tolls;

(*c*) fix fees for the use of public landing places, wharves, piers, jetties, docks, basins, lie-byes, sidings, sheds or warehouses provided for the accommodation of vessels using a canal or of goods or passengers carried or to be carried thereon and for demurrhage on vessels or goods detained therein.

A notification of such tolls or fees under clauses (*b*) and (*c*) of this section shall be exhibited to public view in English and in the vernacular language of the district at the places where such tolls or fees are leviable.

Power of person duly authorized to impose punishment for breach of condition of licence and to deal with any obstruction or with navigation in contravention of Act.

7. Any person duly empowered by [5] [the State Government] in this behalf may—

(i) suspend or cancel the licence or registration of any vessel in case of breach of any condition thereof, or in lieu of such suspension or cancellation or of prosecution may recover from the person in charge of the vessel a penalty not exceeding five rupees for each such breach;

(ii) remove from the canal any vessel which may be sunk or abandoned therein, and may recover any expense incurred in so doing by the sale of the vessel; a vessel left for more than three days without a competent person in charge shall be held to be abandoned;

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[3] This section was substituted by Madras Act II of 1895, section 1.

[4] This proviso was added to s. 5 by s. 2 of Madras Act V of 1914.

[5] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(iii) in case of emergency remove any other obstruction, or contrivance for fishing, or other thing which is an impediment to navigation, or in other cases serve notice upon the owner, if any, to remove any such thing within a reasonable time to be stated in the notice, failing which he may remove it himself. Expenses incurred under this clause shall be recoverable from the owner: Provided always that, in cases of interference with private rights reasonable compensation shall be payable;

(iv) prohibit the construction of any contrivance for fishing or for any other purpose in the canal or any erection therein or on a tow-path or other land appurtenant thereto;

(v) stop any vessel navigating the canal in contravention of any of the provisions of this Act or of any rule made or any condition of licence or registration prescribed thereunder, and may detain it until the same is complied with or until penalty has been paid or recovered under clause (i) of this section or until the offence, if any, has been inquired into and disposed of.

Powers under this section may be conferred either by name or in virtue of an office.

Power to declare that ferries not being public ferries shall be subject to rules for securing the safety of passengers.

[1] [7-A. (1) The [2] [State] Government may, by notification in the *Fort St. George Gazette*, declare that any ferry, not being a public ferry, shall be subject to any rules made by them under this section for the purpose of securing the safety of passengers conveyed across the ferry.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(i) the types of vessels that may be used for conveying passengers across the ferry; and

(ii) the number of passengers that may be so conveyed on vessels of each such type.]

Power to apply Act to any ferry and define limits of ferry.

8. The [3] [State Government] may, by notification in the [4] [Official Gazette], declare any ferry to be subject to the

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[1] This section was inserted by section 3 of the Canals and Public Ferries (Amendment) Act, 1941 (Madras Act XX of 1941). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[2] This word was substituted for the word "Provincial" by theo Adapation Order of 1950.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

provisions of [1] [sections 9 to 18 of this Act] from a date to be named in such notification, and may define the limits of such ferry. The [2] [State Government] may, in like manner, cancel or modify any such notification.

Upon such application existing rights of ferry to cease.

9. From such date all previously existing rights of ferry within the limits defined in the notification shall cease and determine, and it shall be unlawful for any person not duly authorized to convey goods, animals or passengers by means of vessels across a channel within such limits while such notification is in force: Provided that, when rights of ferry are extinguished under this section, compensation shall be payable for such extinction and shall be assessed as near as may be under any law for the time being in force relating to the acquisition of land for public purposes.

Proviso.

Power to provide for management of ferries and fix fees and rates of tolls.

[3] [**10.** (1) The [4] [State] Government may—

(*a*) provide for the management of any public ferry, or

(*b*) authorize any person to convey passengers, animals, vehicles or goods across a channel by means of vessels at any public ferry, or

(*c*) assign the management of any public ferry to a [5] local board or municipal council.

(2) All vessels used by a person authorized under clause (*b*) of sub-section (1) shall be licensed, and the [4] [State] Government may fix the fees payable for such licence.

(3) In the cases referred to in clauses (*a*) and (*b*) of sub-section (1), the [4] [State] Government may levy tolls at such rates as they may fix upon passengers, animals, vehicles and goods conveyed across the ferry.

(4) Where under clause (*c*) of sub-section (1), the management of a public ferry is assigned to a [5] local board or municipal council, the [5]local board or municipal council may levy tolls upon passengers, animals, vehicles and goods conveyed across the ferry at such rates as it may, subject to the control of the

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[1] These words and figures were substituted for the words "this Act" by section 4 of the Canals and Public Ferries (Amendment) Act, 1941 (Madras Act XX of 1941). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This section was substituted for the original section 10 by section 2 of the Canals and Public Ferries (Amendment) Act, 1939 (Madras Act VII of 1939).

[4] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

[5] Now district board.

[1] [State] Government, fix. All moneys received by the [2]local board or municipal council from the tolls levied by it under this sub-section shall form part of its funds.

(5) A notice in English and in the language of the district specifying the tolls leviable at a ferry under sub-section (3) or sub-section (4), as the case may be, shall be exhibited to public view on each side of the ferry.]

Power to assign management of canal to district board or municipal council.

11. The management of any canal [3] [. . . . .] may, by order of the [4] [State Government], be assigned to a [2]local board or municipal council [5] [. . . . . .] which shall exercise all the powers stated in section 7, and may, subject to the control of [6] [the State Government], confer such powers on its servants. All persons duly empowered under section 7 shall be deemed to be public servants within the meaning of the Indian Penal Code.

Central Act XLV of 1860.

Power to appoint persons to collect tolls or fees and to lease out collection thereof.

12. The [4] [State Government] or the managing authority shall appoint persons to collect tolls or fees payable under this Act. The collection of such tolls or of fees other than licence-fees may, under such conditions as the [4] [State Government] may from time to time prescribe, be leased out and in such case the lessee and his agents and servants shall be deemed to be so appointed.

Procedure in case of non-payment of toll, etc., on demand.

13. In case any tolls, fees other than licence-fees or penalties payable under this Act are not paid when demanded by a person duly appointed or empowered to collect or impose the same, such person may seize any vessel, goods, vehicles or animals in respect of which such toll, fee or penalty is payable or anything in the possession of a passenger or person who is liable to such toll, fee or penalty, and any person empowered by [6] [the State Government] or the managing authority in this behalf may sell the same by auction after fifteen days' public notice of the sale if such toll, fee or penalty is still unpaid. After deduction of such toll, fee or penalty and of the expenses of sale, the surplus proceeds, if any, shall be paid to the person from whose possession the thing sold was taken.

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[1] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

[2] Now district board.

[3] The words "or public ferry" were omitted by section 3 of the Canals and Public Ferries (Amendment) Act, 1939 (Madras Act VII of 1939).

[4] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[5] The words "and thereupon in every such case the revenue accruing therefrom shall be credited to the funds of such managing authority" were omitted by the Adaptation Order of 1937.

[6] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

What payments may be recovered as arrears of revenue.

14. All canal and ferry rents and expenses incurred under section 7 may be recovered by the Collector of the district in like manner as if they were arrears of land-revenue :

[1] [Provided that any ferry rent due to a [2] local board or municipal council shall be recovered as if the same were a tax due to the [2] local board or municipal council.]

Form, etc., of licences and registrations.

15. All licences granted and registrations effected under this Act shall be in such form, shall be valid for a voyage or for such time, and shall contain, or be subject to, such conditions as the [3] [State Government] may from time to time direct.

Power to make rules.

16. The [3][State Government] may make rules in respect of any canal or public ferry for all or any of the following purposes :—

(i) declaring the powers to be exercised by any person employed under this Act ;

(ii) providing for the grant of licences, for the inspection of licensed vessels, and for their maintenance in good condition ;

(iii) regulating the dimensions of free board of vessels using any canal or public ferry, the equipment of the same, and the number of passengers and the nature and quantity of cargo to be carried therein ;

(iv) regulating the speed at which vessels shall be moved, the passing of vessels, the lights to be exhibited by vessels moving or at anchor, the working of locks, the mooring of vessels, and the use of landing places, wharves, piers, jetties, docks, basins, lie-byes, sidings, sheds or warehouses ;

(v) the disposal of vessels or other things confiscated or seized under this Act ;

(vi) for the convenience of passengers ; and generally for the purpose of this Act.

Penalty for breach of rule.

17. Any person who breaks any rule made under this Act shall be punishable on conviction by a Criminal Court with fine not exceeding fifty rupees in case of a single offence, and, in case of a continuing offence, not exceeding ten rupees for every day during which such offence continues. If the offence is such as to endanger human life, the punishment may extend to imprisonment of either description for one year or to fine of five hundred rupees, or both.

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[1] This proviso was added by section 4 of the Canals and Public Ferries (Amendment) Act, 1939 (Madras Act VII of 1939).

[2] Now district board.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

18. Any person navigating a canal or establishing or working a ferry in contravention of section 5, [1][7-A] or 9 of this Act shall be liable on conviction before a Criminal Court to fine not exceeding five hundred rupees. Penalty for navigating a canal or establishing or working a ferry in contravention of section 5, 7 or 9.

19. Any person who refuses or evades payment of any toll or fee payable under this Act, or without due authority levies any toll or fee under colour of this Act, or, being empowered to collect tolls or fees under this Act, collects or receives any sum in excess of the lawfull due, shall on conviction by a Criminal Court be punishable with imprisonment of either description not exceeding one month, or with fine not exceeding one hundred rupees, or with both. Penalty for evasion of toll or fee and for unauthorized levy of toll, etc.

20. On conviction had of any offence under this Act, the Court may order that any vessel or other thing used in the commission of such offence shall be confiscated. Power of Court to order confiscation.

[2][**21.** The [3][State Government] may delegate all or any of [4][their] powers under sections 5, 10, 11, 12, 13 and 15 to any officer not below the rank of District Collector or Superintending Engineer.]

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[1] The figure and letter "7-A" were inserted by section 5 of the Canals and Public Ferries (Amendment) Act, 1941 (Madras Act XX of 1941). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[2] Section 21 was added by Mad. Act VIII of 1914.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] This word was substituted for the word "his" by the Adaptation Order of 1937.

(*Chapter I.—Definitions.*)

MADRAS ACT No. I OF 1891.[1]

[THE MADRAS GENERAL CLAUSES ACT, 1891.]

[*3rd April* 1891 ; *14th May* 1891.]

An Act for further shortening the language used in [2][Madras Acts] and for other purposes.

WHEREAS it is expedient to further shorten the language used in [3][Madras Acts made] and to make certain further provisions relating to those Acts ; It is hereby enacted as follows :—

Short title. **1.** (*a*) This Act may be called the Madras General Clauses Act, 1891 ; and

Commencement. (*b*) It shall come into force on the first day of January 1892.

Saving clause. **2.** Notwithstanding anything contained in the Madras General Clauses Act, 1867, the provisions of that Act shall not apply to this Act or to any [4][Madras Act] which may be passed subsequent to the commencement of this Act. Mad. Act I of 1867.

CHAPTER I.

Definitions.

Definitions. **3.** In this Act and in every [5][Madras Act made] after the commencement of this Act, unless there be something repugnant in the subject or context,—

"Abet." (1) "abet," with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code : Central Act, XLV of 1860.

"Barrister." (2) "barrister" shall mean a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland :

(3) [6][. . . .]

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 3rd March, 1891, p. 5 ; for Report of the Select Committee, *see ibid*, dated 10th *idem*, p. 1 ; for Proceedings in Council, *see ibid*, dated 10th *idem*, p. 2, and *ibid*, dated 7th April, 1891 p. 1.

[2] These words were substituted for the words "Acts of the Governor of Fort St. George in Council" by the Adaptation (Amendment) Order of 1950.

[3] These words were substituted for the words "Acts made by the Governor of Fort St. George in Council" by the Adaptation Order of 1937.

[4] These words were substituted for the words "Act of the Governor of Fort St. George in Council" by *ibid*.

[5] These words were substituted for the words "Act made by the Governor of Fort St. George in Council" by *ibid*.

[6] Clause (3) was omitted by *ibid*.

(4) "Chapter;" "part," "section" and "schedule" shall mean respectively a Chapter, part and section of, and schedule to, the Act in which the word occurs : "Chapter," "part," "section" and "schedule."

(5) "City of Madras" shall mean such local area as is declared from time to time to be the City of Madras under any Act for the time being in force relating to the municipal affairs of such city : "City of Madras."

(6) "Collector" shall include every officer who, for the time being, is authorized to exercise the powers of a Collector : "Collector."

(7) "commencement," used with reference to an Act, shall mean the time at which the Act comes into force : "Commencement."

(8) "District Collector" shall mean the chief local officer in charge of the revenue administration of a district : "District Collector."

(9) "document" shall mean any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter : "Document."

(10) "financial year" shall mean the year commencing on the first day of April ; "Financial year."

(11) nothing is said to be done or believed in "good faith" which is done or believed without due care and attention : "Good faith."

[1][(12) . . . . .]

[2][(13) . . . . .]

(14) "immovable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth : "Immovable property."

(15) "imprisonement" shall mean imprisonment of either description as defined in the Indian Penal Code : "Imprisonment."

Central Act, XLV of 1860.

[3][(15-A) . . .]

(16) "judicial proceeding" shall mean any proceeding in the course of which evidence is, or may be, legally taken : "Judicial proceeding."

(17) "local authority" shall mean a Municipal Committee, District Board, body of Port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund : "Local authority."

[4][(17a) "Madras Act" shall mean an Act made by the Governor of Fort St. George in Council under the Indian Councils Acts, 1861 to 1909 or any of those Acts, or the Government of India Act, 1915, or by the Local Legislature or the

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[1] Clause (12) was omitted by the Adaptation Order of 1937.
[2] Clause (13) was omitted by the Adaptation (Amendment) Order of 1950.
[3] Clause (15-A) was omitted by the Adaptation Order of 1937.
[4] Clause (17a) was inserted by *ibid.*

Governor of the Presidency of Madras under the Government of India Act[1] (or by the Provincial Legislature of Madras under the Government of India Act, 1935, or by the Legislature of the State of Madras under the Constitution):]

"Magistrate." (18) "Magistrate" shall mean any person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure), 1882[2]:

"Movable property." (19) "movable property" shall mean property of every description except immovable property :

"Oath," "swear" and "affidavit." (20) "oath," "swear" and "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing :

"Offence." (21) "offence" shall mean any act or omission made punishable by any law for the time being in force :

"Person" (22) "person" shall include any company or association of individuals, whether incorporated or not :

"Place." (23) "place" includes also a house, building, tent and vessel :

[3][(24) . . .]:

"Presidency town." (25) "Presidency-town" shall mean the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Judicature at Madras :

"Public." (26) "public" includes any class of the public or any community :

"Public nuisance." (27) "public nuisance" shall have the meaning assigned to that expression in section 268 of the Indian Penal Code : Central Act XLV of 1860.

"Registered." [4][(28) "registered", used with reference to a document, shall mean registered in a Part A State or a Part C State under the law for the time being in force for the registration of documents :]

"Sign." (29) "sign," with its grammatical variations and cognate expressions, shall with reference to a person who is unable to write his name, include "mark" with its grammatical variations and cognate expressions :

"Son" and "father." (30) in the case of any one whose personal law permits adoption, "son" shall include an adopted son, and "father" an adoptive father :

"Sub-section." (31) "sub-section" shall mean a sub-section of the section in which the word occurs :

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[1] These words were substituted for the words "or by the Provincial Legislature or the Governor of Madras under the Government of India Act, 1935" by the Adaptation (Amendment) Order of 1950.

[2] *See* now the Code of Criminal Procedure, 1898 (Central Act V of 1898).

[3] Clause (24) was omitted by the Adaptation Order of 1937.

[4] This clause was substituted for the original clause (28) by the Adaptation (Amendment) Order of 1950.

(Chapter I—Definitions. Chapter II.—General Provisions applicable to future Acts.)

(32) " value," used with reference to a suit, shall mean the amount or value of the subject-matter of the suit, computed according to the law for the time being in force regulating the valuation of suits for purposes of jurisdiction : " Value."

(33) " will " shall include a codicil and every writing making a voluntary posthumous distribution of property : " Will."

(34) words importing the masculine gender shall include females : Gender.

(35) words in the singular shall include the plural, and words in the plural shall include the singular : Number.

(36) words which refer to acts done extend also to illegal omissions : Illegal omissions.

(37) " writing," with its grammatical variations and cognate expressions, shall include " printing," " lithography," " photography," with their grammatical variations and cognate expressions, and other modes of representing or reproducing words in a visible form : " Writing."

(38) " year " and " month " shall, respectively, mean a year and month reckoned according to the British calendar. " Year " and " month."

CHAPTER II.

General Provisions applicable to future Acts.

Application of Chapter II to all future Acts.

4. This Chapter shall apply to all [1][Madras Acts made] after the commencement of this Act, unless a contrary intention appears in such Acts.

Commencement of future Acts.

[2][**5.**[3] [(1) Where any Act to which this Chapter applies is not expressed to come into operation on a particular day, then, it shall come into operation on the day on which the assent thereto of the Governor, the Governor-General or the President, as the case may require, is first published in the Official Gazette.]

(2) In every such Act the date of such publication as aforesaid shall be printed either above or below the title of the Act and shall form part of the Act.]

Making of rules and issue of orders between passing and commencement of Act.

6. Where, by an Act to which this Chapter applies and which is not to come into force immediately on the passing thereof, a power is conferred on Government or other authority to make rules, or to issue orders, with respect to the application of the Act, or with respect to the appointment of any officer thereunder, such power may be exercised at any time after the passing of the Act, but rules or orders so made or issued shall not take effect till the commencement of the Act.

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[1] These words were substituted for the words " Acts made by the Governor of Fort St. George in Council " by the Adaptation Order of 1937.

[2] This section was substituted for the original by *ibid.*

[3] This sub-section was substituted for sub-section (1) by the Adaptation (Amendment) Order of 1950.

(Chapter II.—General Provisions applicable to future Acts.)

Provisions regulating the making of rules after previous publication.

7. Where, by an Act to which this Chapter applies, a power to make rules is expressed to be given, subject to the condition of the rules being made after previous publication, the following provisions shall apply, namely :—

Publication of draft rules.

(*a*) the authority having the power to make the rules shall, before making them, publish a draft of the proposed rules ;

Manner of publication.

(*b*) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the [1] [Central Government or, as the case may be, the [2](State) Government] prescribes ;

Notice to accompany draft rules.

(*c*) there shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration ;

Consideration of suggestion in regard to draft rules.

(*d*) the authority having power to make the rules, and, where the rules are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules from any person with respect to the draft, before the date so specified ;

Publication to be proof of due making of rules.

(*e*) the publication in the [3][Official Gazette] of a rule purporting to have been made in exercise of a power to make rules after previous publication, shall be conclusive proof that the rule has been duly made.

Effect of repealing an Act.

8. Where any Act, to which this Chapter applies, repeals any other enactment, then the repeal shall not—

(*a*) affect anything done or any offence committed, or any fine or penalty incurred or any proceedings begun before the commencement of the repealing Act ; or

(*b*) revive anything not in force or existing at the time at which the repeal takes effect ; or

(*c*) affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed ; or

(*d*) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed ; or

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[1] These words were substituted for the word " Government " by the Adaptation Order of 1937.

[2] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

[3] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

(*e*) affect any fine, penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed ; or

(*f*) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, fine, penalty, forfeiture or punishment as aforesaid ; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such fine, penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

Effect of repeal of Act making textual amendment in previous Act.

[1] [8-A. Where any Act to which this Chapter applies, repeals any enactment by which the text of any previous enactment was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal.]

Revival of repealed enactments.

9. In any Act to which this Chapter applies—

(*a*) for the purpose of reviving, either wholly or partially, an Act or Regulation, wholly or partially repealed, it shall be neces sary expressly to state such purpose ;

Commencement of term.

(*b*) for the purpose of excluding the first in a series of days or any other period of time, it shall be sufficient to use the word "from" ;

Termination of term.

(*c*) for the purpose of inculding the last in a series of days or any other period of time, it shall be sufficient to use the word "to" ;

Application to subordinates of law relative to official superiors.

(*d*) for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully executing the duties of such office in the place of their superior, it shall be sufficient to prescribe the duty of the superior ;

Application of law to successors of functionaries and corporations.

(*e*) for the purpose of indicating the relation of a law to the successors of any functionaries, or of corporations having perpetual succession, it shall be sufficient to express its relation to the functionaries or corporations ; and

Application of law to persons for time being filling an office.

(*f*) for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, it shall be sufficient to mention the official title of the officer, at present executing such functions, or that of the officer by whom the functions are commonly executed.

[1] Section 8-A was inserted by the Madras General Clauses (Amendment) Act, 1936 (Madras Act IV of 1937).

(Chapter II.—General Provisions applicable to future Acts.
Chapter III.—General Provisions applicable to all Acts.)

Expressions used in rules, bye-laws and orders to have same meaning as in Act under which they are made or issued.

10. Where an Act, to which this Chapter applies, confers power to make rules or bye-laws or to issue orders, expressions used in such rules, bye-laws or orders, have the same respective meanings as in the Act conferring the power.

Necessary extension of prescribed periods.

11. Where, by an Act to which this Chapter applies, any act or proceeding is directed or allowed to be done or taken in a Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceedings shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

This section does not apply to any act or proceeding to which the Indian Limitation Act, 1877,[1] applies. Central Act XV of 1877.

CHAPTER III.

General Provisions applicable to all Acts.

Application of Chapter III to all Acts.

12. This Chapter shall apply to all [2] [Madras Acts made] unless a contrary intention appears in any such Act, but it shall not affect anything done or commenced prior to the commencement of this Act under any enactment now in force.

When powers and duties to be exercised and performed.

13. Where an Act confers a power or imposes a duty, then the power may be exercised and the duty shall be performed from time to time as occasion requires.

Exercise of power and performance of duty by temporary holder of office.

14. Where an Act confers a power or imposes a duty on the holder of an office, as such, then the power may be exercised and the duty shall be performed by the holder for the time being of the office.

Revocation and alteration of rules, bye-laws and orders.

15. Where an Act confers a power to make any rules or bye-laws, or to issue orders, the power shall be construed as including a power exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, amend or vary the rules, bye-laws or orders.

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[1] See now the Indian Limitation Act, 1908 (Central Act IX of 1908).

[2] These words were substituted for the words " Acts made by the Governor of Fort St. George in Council " by the Adaptation Order of 1937.

(*Chapter III.—General Provisions applicable to all Acts.*)

Duty leviable *pro rata.*

16. Whenever by an Act any duty of customs or excise or in the nature thereof is leviable on any given quantity, by weight, measure or value, of any goods or merchandise, a like duty shall be leviable according to the same rate on any greater or less quantity.

Mode of conferring powers and imposing duties.

17. Whenever by an Act authority is given to confer powers or impose duties, such powers may be conferred or duties imposed by name or by office or on classes of officials generally by their official titles.

References to provisions in Acts repealed and re-enacted.

18. Where an Act repeals and re-enacts, with or without modification, all or any of the provisions of a former Act, references in any other Act to the provisions so repealed shall be construed as references to the provisions so re-enacted, and if notifications have been published, proclamations or certificates issued, powers conferred, forms prescribed, local limits defined, offices established, orders, rules and appointments made, engagements entered into, licences or permits granted, and other things duly done, under the provisions so repealed, the same shall be deemed, so far as the same are consistent with the provisions so re-enacted, to have been respectively published, issued, conferred, prescribed, defined, established, made, entered into, granted or done under the provisions so re-enacted.

Recovery of fines.

Central Act XLV of 1860.

19. The provisions of sections 63, 68, 69 and 70 of the Indian Penal Code shall apply to all fines imposed under the authority of any Act.

Punishment for offences under more than one enactment.

20. Where an act or omission constitutes an offence under two or more enactments, the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same act or omission.

Publication of orders and notifications in the Official Gazette.

21. Where in any Act, or in any rule passed under any Act, it is directed that any order, notification or other matter shall be notified or published, such notification or publication shall, unless the Act otherwise provides, be deemed to be duly made if it is published in the [1] [Official Gazette].

Determination of the times at which Acts or provisions of Acts extended or applied by Government to certain places shall come into force.

22. When, by an Act [2][any Government] is empowered to extend or apply an Act or any provision of an Act to any place in, or to any portion of, the [3][State], the Government may, in any order extending or applying such Act or provision or in a subsequent order, notify the time at which the same

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[1] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[2] These words were substituted for the word "Government" by *ibid.*

[3] The word "Province" was substituted for the words "Presidency of Madras" by the Adaptation Order of 1937 and the word "State" was substituted for "Province" by the Adaptation Order of 1950.

(Chapter III.-- General Provisions applicable to all Acts.
Chapter IV.—Application to Ordinances and Regulations.)

shall come into force in the place or portion of the [1][State] to which it is so extended or applied ; and, unless it is otherwise provided in the Act, [2][the Government] may, by notification in the [3][Official Gazette] from time to time postpone the time at which the Act or provision shall come into force in such place or portion of the [1][State] or cancel the order for extending or applying the same to such place or portion of the [1][State] :

Proviso.

Provided that no order postponing the time at which an Act or provision shall come into force, or cancelling an order for extending or applying the same, shall be made after the Act or provision has actually come into force in the place or portion of the [1][State] to which such order relates.

[4]CHAPTER IV.

APPLICATION TO ORDINANCES AND REGULATIONS.

Application of Act to Regulations and Ordinances.

[5][**23.** The provisions of this Act shall apply—

(*a*) in relation to any Regulation made by the Governor under section 92 of the Government of India Act, 1935, in like manner as they apply in relation to Madras Acts made by the Provincial Legislature ; and

(*b*) in relation to any Ordinance promulgated by the Governor under article 213 of the Constitution or any Regulation made by him under paragraph 5 of the Fifth Schedule to the Constitution, in like manner as they apply in relation to Madras Acts made by the State Legislature :

Provided that sub-section (1) of section 5 of this Act shall apply to any Ordinance referred to in clause (*b*) as if the reference in that sub-section to the day of the first publication of the assent to an Act in the Official Gazette were a reference instead to the day of the first publication of the Ordinance in that Gazette.]

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[1] The word "Province" was substituted for the word "Presidency" by the Adaptation Order of 1937 and the word "State" was substituted for "Province" by the Adaptation Order of 1950.

[2] These words were substituted for the word "Government" by the Adaptation Order of 1937.

[3] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[4] Chapter IV was inserted by *ibid.*

[5] This section was substituted for the original section 23 by the Adaptation (Amendment) Order of 1950.

MADRAS ACT No. V OF 1893.[1]

[THE MADRAS REVENUE ENQUIRIES ACT, 1893.]

[10*th October* 1893.]

An Act for facilitating enquiries into matters connected with the administration of the Revenue and into the conduct of Public Servants.

Preamble.

WHEREAS it is expedient to make further provision to facilitate enquiries into matters connected with the administration of the revenue and into the conduct of public servants; It is hereby enacted as follows :—

Local extent.

1. This Act extends to the whole of the Presidency of Madras.

Officer deputed to make enquiries invested with certain powers.

2. The Government may, by order, invest any officer deputed by it to make an enquiry into any matter connected with the administration of the revenue or into the conduct of any public servant as such with power to summon any person to appear before such officer or to produce any document or thing in the possession or under the control of such person the production of which, in the opinion of such officer, is necessary to the conduct of such enquiry.

Application of certain portions of Madras Revenue Summons Act 1869.

3. The provisions of sections 2, 3, 4 and 5 of Madras Act III of 1869 shall, *mutatis mutandis*, apply to summonses issued under this Act.

Examination of witnesses.

4. Any officer making an enquiry under this Act may examine orally any person supposed to be acquainted with the matter under enquiry or any fact relevant thereto, and may reduce into writing any statement made by the person so examined.

Such person shall be bound to answer truly all questions relating to such matter put to him by such officer, other than questions the answers to which would have a tendency to expose him to criminal charge or to a penalty or forfeiture.

Statements of witnesses not to be used as evidence in certain cases.

No such statement, when taken in the absence of a public servant whose conduct is under enquiry, shall be used as evidence against such public servant in any judicial proceeding.

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[1] Short title, "The Madras Revenue Enquiries Act, 1893" was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 12th July 1892, p. 1; for Report of the Select Committee, *see ibid*, dated 14th February 1893, p. 1; for Proceedings in Council, *see ibid*, dated 24th January 1893, p. 5; *ibid*, dated 7th March 1893, p. 3; and *ibid*, dated 11th April 1893, p. 4.

MADRAS ACT No. I OF 1894.[1]

[THE MADRAS BOARD OF REVENUE ACT, 1894.]

[23*rd January* 1894.]

An Act to provide further for the conduct of business by the Board of Revenue.

WHEREAS it is expedient to provide further for the conduct of business by the Board of Revenue; It is hereby enacted as follows :—

1. [*Repeal.*] *Rep. by the Repealing and Amending Act,* 1901 (*Central Act XI of* 1901).

Board may distribute business subject to approval of Government

2. Notwithstanding anything contained in Regulation I of 1803, in Regulation V of 1804[2], or in any other enactment in force in the Presidency of Madras, it shall be lawful for the Board of Revenue, subject to the approval of[3] [the Government concerned], to declare what portion of the business of the Board may be disposed of by a single member or by two members, and what portion shall be reserved for the decision of a Collective Board. Every such declaration shall, after approval by [3][the Government concerned], be notified in the [4][Official Gazette] :

Proviso.

Provided that, in the case of any subject reserved for disposal by a single member or by two members, the said member or members may refer it, after consideration, for the opinion of another member or for the decision of a Collective Board, as the case may be, and that, where the opinions of two members differ, they shall refer the subject for the decision of a Collective Board.

Orders of one or more members to be orders of Board.

3. All orders made and decisions passed by one or more members of the Board in accordance with a declaration made under the last preceding section or with its proviso shall be held to be the orders and decisions of the Board of Revenue, and the same shall not be deemed invalid by reason that subsequent thereto the said declaration was disapproved by [3][the Government concerned].

A Collective Board.

4. Not less than three members of the Board shall be held to constitute a Collective Board.

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[1] Short title, "The Madras Board of Revenue Act, 1894," was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 24th January 1893, p. 1; for Report of the Select Committee, *see ibid,* dated 16th May 1893, p. 1; for Proceedings in Council, *see ibid,* dated 2nd May 1893, p. 18; and *ibid,* dated 21st November 1893, p. 17.

See Mad. Act I of 1902, s. 7 (1).

[2] Repealed except as regards the Scheduled Districts—*see* section 2 of Madras Act I of 1902.

[3] These words were substituted for the word "Government" by the Adaptation Order of 1937.

[4] These words were substituted for the words "*Fort St. George Gazette*" by *ibid.*

(Chapter I—Preliminary)

MADRAS ACT No. II OF 1894.[1]

[THE MADRAS PROPRIETARY ESTATES' VILLAGE SERVICE ACT, 1894.]

[29*th May* 1894.]

An Act to amend the law relating to Village Officers in permanently settled and certain other estates.

Preamble. WHEREAS it is expedient to amend the law relating to village-officers in permanently-settled estates, in unsettled palaiyams and in inam villages, and to make better provision for their appointment and remuneration, and for the prevention and summary punishment of misconduct or neglect of duty on their part, and generally for securing their efficiency; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called the Madras Proprietary Estates' Village Service Act, 1894.

Extent. 2. [2][The State Government] may, by notification, extend this Act or any portion thereof to any estate within the Presidency of Madras, and to the office of any of the following classes of village-officers, by whatever designations such village-officers may be locally known, in such estates :—

(1) Village-accountants ;

(2) Heads of villages ;

(3) Village watchmen or police officers ; [3][and may at any time rescind, revoke, amend or vary, any such notification].

In case of doubt whether a village-officer in any estate falls under any of the above classes, [2][the State Government] shall have power to decide whether such village-officer comes under any of the above classes and, if so, under which of them.

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[1] Introduced as a Bill to amend the law in regard to "Karnams and other Village-officers", etc.

For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 31st January 1893, page 8 ; for Report of the Select Committee, *see ibid*, dated 11th April 1893, page 1 ; for further Report of the Select Committee, *see ibid*, dated 8th November 1893, page 1 ; for Proceedings in Council, *see ibid*, dated 7th March 1893, page 3 ; *ibid*, dated 11th April 1893, page 4 ; *ibid*, dated 2nd May 1893, page 17 ; *ibid*, dated 21st November 1893, pages 2 and 17 ; *ibid*, dated 9th January 1894, page 7 ; *ibid*, dated 23rd January 1894, page 3 ; *ibid*, dated 30th January 1894, page 2 ; and *ibid*, dated 6th February 1894, page 6.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] These words were inserted by Mad. Act III of 1914, s. 4.

Repeal.

3. Upon the extension of this Act or of any portion thereof to the office of village-accountant in any estate, section 11 of Madras Regulation XXV of 1802[1] and Madras Regulation XXIX of 1802[1] (*a regulation for establishing the office of karnam and defining the duties of the said office*) shall cease to be in force in such estate.

Interpretation clause.

4. In this Act, unless there is something repugnant in the subject or context—

Estate.

"Estate" means—

(*a*) any permanently-settled estate, whether a zamindari, jaghir, mitta or palaiyam;

(*b*) any portion of such permanently-settled estate which has been separately registered in the office of the Collector;

(*c*) any unsettled palaiyam[2] [or jaghir];

(*d*) any inam village of which the grant was made or confirmed by the [3][* * *] Government;

(*e*) any portion, consisting of one or more villages, of any of the estates specified above in clauses (*a*), (*b*) and (*c*), which is held on a permanent under-tenure:

"Proprietor."

"Proprietor" means any person in whose name any estate is for the time being registered in the office of the Collector of the district wherein the estate is situated and, in respect of an estate specified above in clause (*e*), the holder thereof;

Where an estate is so registered in the names of two or more persons as joint owners thereof, the proprietor shall, for the purposes of this Act, be the person who is recognized by the other joint-owners as the manager of the estate or who, in case of dispute, is recognized and registered by the Collector as senior joint-owner:

[4][If one or more villages or portion thereof in any estate be grouped or amalgamated with one or more villages or portions thereof, in any other estate, the Collector shall declare which of the proprietors of the said villages shall, for the purposes of this Act, be the proprietor of the new village.]

[5][* * * * * *]

"Village".

"Village" means any local area situated in or constituting an estate to which this Act or any portion thereof has been

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[1] Short titles respectively "The Madras Permanent Settlement Regulation, 1802", and "The Madras Karnams Regulation, 1802" were given by the First Schedule to the Repealing and Amending Act, 1901 (Central Act XI of 1901).

[2] These words were inserted by Mad. Act III of 1895, s. 2 (3), with effect from 1st October 1895.

[3] The word "British" was omitted by the Adaptation (Amendment) Order of 1950.

[4] This paragraph was added by Mad. Act III of 1914, s. 5.

[5] The proviso which was inserted by s. 1 of Mad. Act IV of 1900 was repealed by Mad. Act VI of 1911, s. 2.

extended and which is now recognized as a village or which may hereafter be declared by [1][the State Government] for the purposes of this Act to be a village:

"Village-office" means, in respect of any estate, an office in such estate to which this Act or any portion thereof has been extended by notification under section 2; and "Village-officer" means a person holding or discharging the duties of such office. "Village-office" and "Village-officer."

CHAPTER II.

VILLAGE ESTABLISHMENTS; THEIR STRENGTH, APPOINTMENT AND CONTROL.

Register of village-officers to be prepared and submitted Collector ont requisition.

5. Every proprietor shall, within three months after requisition from the District Collector, prepare a register containing particulars of all the village-officers and village-servants employed in his estate and of their emoluments and duties in a form to be prescribed by the Board of Revenue and shall submit it to the District Collector:

Provided that the said Collector may at his discretion extend the period for the submission of the said register.

Division and grouping of villages.

6. (1) Whenever it appears to the District Collector that, as a matter of administrative convenience, it is desirable that any portion of a village should be registered as a separate village, or that two or more villages or portions thereof[2] [* * *] should be grouped or amalgamated, he shall, by notice in writing, require the proprietor [3][or proprietors concerned] and also the village-officers likely to be affected by the proposed change to show cause, within three months after service of such notice, why such portion of a village should not be so registered or such villages or portions thereof be so grouped or amalgamated.

(2) If the [4][proprietors] or the village-officers aforesaid fail to show such cause, the said Collector shall submit the records of the proceedings to the Board of Revenue, and shall then, with the previous sanction of the said Board, declare by notification in the District Gazette such portion of a village or such villages or portions thereof so grouped or amalgamated to be a village for the purposes of this Act, and shall cause such notification to be published in the said village and a copy

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "in any estate" were omitted by Mad. Act III of 1914, s. 6.

[3] These words were substituted for the words "of the estate in which the village or villages is or are situated" by *ibid.*

[4] This word was substituted for the word "proprietor" by *ibid.*

thereof to be furnished to the [1] [proprietors]. Before according such sanction the Board of Revenue shall consider any representations which may be made to it within three months of the Collector's submission of the record by the [1] [proprietors] or by the village-officers aforesaid or by others affected.

[2] [* * * * * *]

Such establishment as Collector requires to be maintained in each village.

7. In every village, there shall be maintained so many and such village-officers as the District Collector, subject to the orders of the Board of Revenue, may direct.

Vacancies in village-offices to be reported by proprietor.

8. Every vacancy caused by the death or resignation of a village-officer shall, within thirty days after the occurrence thereof, be reported by the proprietor to the Revenue-officer in charge of the division of the district wherein such village is situated.

Proprietor to appoint new officer but to report fact to Divisional Officer.

9. When a vacancy has occurred in a village-office or the District Collector directs that a village-officer shall be appointed to a newly created village-office, the proprietor of the village shall, within six weeks, appoint a person to such vacant or newly created village-office and send notice of the appointment in writing, in such form as the Board of Revenue may, by rules made under section 32, prescribe, to the Revenue-officer in charge of the division of the district in which the village is situated.

Rules to be observed in making appointments.

10. In making an appointment under section 9 the proprietor shall observe the rules contained in the following sub-sections :—

General qualifications requisite in all cases.

(1) [3] [No person shall be eligible for appointment—

(i) to the office of the head of a village or of a village-accountant, if such person has petitioned to be adjudged an insolvent and the petition is pending disposal, or if he, having been adjudged an insolvent, has not obtained an order of discharge ; or

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[1] This word was substituted for the word "proprietor" by Mad. Act III of 1914, s. 6.

[2] Sub-section (3) was repealed by Mad. Act III of 1914, s. 3. The original sub-section ran as follows :—"(3) The cost, if any, of all proceedings under sub-sections (1) and (2) shall be paid from the Proprietary Estates' Village service Fund constituted under section 28."

[3] These words and figures were substituted for the words "No person shall be eligible for appointment to any village-office who—" by section 2 (*a*) of the Madras Proprietary Estates' Village-service and Hereditary Village-offices (Amendment) Act, 1941 (Madras Act XVIII of 1941), re-enacted permanently by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

(ii) to any village-office (including the offices aforesaid if such person—]

[1][* * * * *]

(*b*) has not attained the age of majority;

(*c*) is not physically and mentally capable of discharging the duties of the office;

(*d*) has not qualified according to the educational test prescribed for the office in question by the Board of Revenue by rules made under section 32;

(*e*) has been convicted by a Criminal Court of any offence which, in the opinion of the Revenue-officer in charge of the division or of the District Collector, disqualifies him for holding the office.

[2][(*f*) has been dismissed from any post under the Government on any ground which the Revenue-officer in charge of the division or the District Collector considers sufficient to disqualify him for holding the office.]

Primogeniture to be observed in cases of hereditary office.

(2) The succession to all hereditary village-officers shall devolve on a single heir according to the general custom and rule of primogeniture governing succession to impartible zamindaris in Southern India.

In certain cases person other than direct heir may be appointed.

(3) Where the next heir to an hereditary village-office is not qualified under sub-section (1), the proprietor shall appoint the person next in order of succession who is so qualified, and in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1).

Divisional Officer may after, in certain cases holding inquiry require proprietor to appoint another person.

11. (1) If the Revenue-officer to whom notice of appointment is sent under section 9 considers the person appointed to be disqualified under sub-section (1) of the preceding section, he may at any time within three months from the date of the receipt by him of the said notice of appointment, and, in cases falling under [3][clause (i) and sub-clauses (*c*), (*e*) and (*f*) of clause (ii)] in sub-section (1) of section 10, after giving

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[1] The letter and words "(*a*) is not of the male sex;" were omitted by the Adaptation (Amendment) Order of 1950.

[2] This sub-clause was added by section 2 (1) of the Madras Proprietary Estates' Village-service and Hereditary Village-offices (Amendment) Act, 1950 (Madras Act IV of 1950).

[3] The words, figures, letters and brackets "clause (i) and sub-clauses (*c*) and (*e*) of clause (ii)" were substituted for the words, letters and brackets "clauses (*c*) and (*e*)" by section 2 (*b*) of the Madras Proprietary Estates' Village-service and Hereditary Village-offices (Amendment) Act, 1941 (Madras Act XVIII of 1941), re-enacted permanently by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949) and the words, brackets and letters "sub-clauses (*c*), (*e*) and (*f*)" were substituted for the words, brackets and letters "sub-clauses (*c*) and (*e*)" by section 2 (2) of the Madras Proprietary Estates' Village-service and Hereditary Village-office (Amendment) Act, 1950 (Madras Act IV of 1950).

notice to the parties concerned and making inquiry, record his objections and call upon the proprietor to appoint another person, and the proprietor shall thereupon do so and send notice of such new appointment to the said Revenue-officer within six weeks after such requisition :

Provided that the person first appointed by the proprietor shall discharge the duties of the office and be entitled to the emoluments thereof until his appointment is set aside and another person is appointed in his place.

In certain cases Divisional Officer may himself make the appointment.

(2) If the notice of appointment referred to in section 9 or the notice of the new appointment referred to in sub-section (1) is not received within the prescribed time, or if the person newly appointed under sub-section (1) is also considered by the said Revenue-officer, after giving notice and making inquiry as aforesaid, to be disqualified as aforesaid, such officer may make the appointment himself by selecting a person duly qualified under section 10.

Appeal allowed.

(3) Whenever an appointment is disallowed under this section, an appeal shall lie to the District Collector within one month, or if the officer disallowing the appointment is the District Collector, an appeal shall lie to the Board of Revenue within three months.

In certain cases appointment of member of family of last holder may be prohibited.

12. Where an hereditary village-office has become vacant by the dismissal, [1][removal] or suspension of the last holder, the authority by whom he was dismissed, [1][removed] or suspended may direct that, until the death, [1][re-appointment] or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1) of section 10 who is not an undivided member of the family of the dismissed, [1][removed] or suspended officer, to be appointed by the proprietor subject to the approval of the Revenue-officer in charge of the division :

Provided that, when the officer who has been dismissed [2] [or removed] dies or if the officer who has been suspended dies while under suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-sections (2) and (3) of section 10.

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[1] This word was inserted by section 2 (*c*) of the Madras Proprietary Estates' Village-service and Hereditary Village-offices (Amendment) Act, 1941 (Madras Act XVIII of 1941), re-enacted permanently by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[2] These words were inserted by section 2 (*d*) *ibid.*

(Chapter II.—Village Establishments; their Strength, Appointment and Control.)

Procedure to be adopted where heir of last holder is a minor.

[1] **13.** When the person who would otherwise be entitled to succeed to an hereditary village-office is a minor, the proprietor shall submit his name to the Revenue-officer in charge of the division for registration as the heir of the last holder, and shall, at the same time and subject to the approval of the said Revenue-officer, appoint some other person qualified under sub-section (1) of section 10 to discharge the duties of the office until the person registered as heir, on attaining majority or within three years thereafter, is qualified under sub-section (1) of section 10 to discharge the duties of the office himself, when he shall be appointed thereto by the proprietor.

[2] [If the person registered as heir under this section remains disqualified under sub-section (1) of section 10 for three years after attaining majority, he shall be deemed to have forfeited his right to the office. On such forfeiture or on his death, the vacancy shall be filled up in accordance with the provisions of this Act, as if he was the last holder of the office.]

Procedure to be ordinarily adopted in case of resignation, dismissal, removal or suspension of officer.

14. (1) If a vacancy is caused by the resignation, dismissal, removal or suspension of the holder of an hereditary village-office, and the authority by whom he was dismissed [3] [removed] or suspended does not give the direction referred to in section 12, the vacancy shall be filled up in accordance with the provisions of this Act as if it had been caused by the death of the said holder :

Provided that, upon the expiry of the period of suspension of an officer who has been suspended, or if, for any reason, an officer who has been dismissed, removed or suspended is permitted to resume the office from which he has been dismissed, removed or suspended, the person appointed to fill the vacancy caused by the said suspension, dismissal or removal shall cease to hold office.

(2) The provisions of section 11 shall, *mutatis mutandis*, apply to appointments to be made under this section and

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[1] *See* the Madras Proprietary Estates' Village-service and Hereditary Village-offices (Amendment) Act, 1943 (Madras Act XXI of 1943), re-enacted permanently with specified modifications by section 3 of, and the Second Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[2] These sentences were substituted for the last sentence of section 13 by section 2 of the Madras Village-offices (Amendment) Act, 1930 (Madras Act VII of 1930).

[3] This word was inserted by section 2 (c) of the Madras Proprietary Estates' Village-service and Hereditary Village-offices (Amendment) Act, 1941 (Madras Act XVIII of 1941), re-enacted permanently by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

sections 12 and 13 [1][subject to the following modifications, namely:—

(*a*) The Revenue-officer shall also have power to disallow any appointment made by the proprietor in the case referred to in the first paragraph of section 12 or of section 13, on the ground that the person appointed is, for any good and sufficient cause recorded by the Revenue-officer in writing, unsuitable for the office.

(*b*) The power of disallowance conferred by clause (*a*) shall not be exercised except after giving notice to the person concerned and making inquiry.

Explanation.—Disallowance of any appointment under clause (*a*) shall be deemed to be a disallowance under section 11 for all the purposes of that section.]

Appointments how to be made in grouped and divided villages.

15. (1) When two or more villages or portions thereof are grouped or amalgamated under this Act to form a single new village, or any village is divided into two or more villages, all the village-officers of the villages or village so grouped, amalgamated or divided shall cease to exist and new offices which shall be hereditary if any of the offices they replace were hereditary shall be created for the new village or villages. In choosing persons to fill such new offices, the proprietor shall select the persons whom he may consider the best qualified from among the [2][families of the last] holders of the offices which have been abolished and shall report his action to the Revenue-officer in charge of the division.

Who to be retained in case of reduction of establishment.

(2) If in any village two or more village-offices of any one class exist and the District Collector, acting under section 7, considers that a reduction in the number of such offices is necessary, he shall give notice to that effect to the proprietor, who shall thereupon dispense with the services of the officers no longer required, shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices, and shall report his action to the Revenue-officer in charge of the division.

Divisional Officer to exercise powers of proprietor in certain cases.

(3) If the proprietor fails to submit the report referred to in sub-sections (1) and (2) within six weeks of the creation of the new offices or of the issue of the District Collector's

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[1] The portion within square brackets was added by section 2 (*f*) of the Madras Proprietary Estates' Village-service and Hereditary Village-offices (Amendment) Act, 1941 (Madras Act XVIII of 1941), re-enacted permanently by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[2] These words were inserted by Madras Act III of 1895, section 2 (3), with effect from 1st October 1895.

notice directing a reduction in the number of village-offices, the powers vested in the proprietor by sub-sections (1) and (2) may be exercised by the Revenue-officer in charge of the division.

[1] [(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), no person shall be deemed to be ineligible for selection under sub-section (1) or retention under sub-section (2), by reason only of his being a minor. If a minor is selected under sub-section (1) or retained under sub-section (2), he shall be registered as the holder of the office and thereafter the procedure laid down in section 13 shall be adopted.]

Proprietor if specially empowered may punish village-officers by fine, subject to appeal.

16. (1) A proprietor empowered in this behalf by the Board of Revenue may, after inquiry, fine any village-officer, to the extent of three rupees, for misconduct or neglect of duty as such village-officer, and shall record his reasons for so doing in writing and furnish a copy of the same to such village-officer and to the Revenue-officer in charge of the division. An appeal shall lie within one month from the date of furnishing such copy against such fine to the said Revenue-officer, whose decision shall be final.

The powers conferred under this sub-section by the Board of Revenue on any proprietor may, at any time, be withdrawn.

Collector and Divisional officer may fine, suspend, dismiss or remove village-officers.

(2) The District Collector or Revenue-officer aforesaid may, of his own motion or on complaint and after inquiry, [2][suspend or remove the head of a village or a village accountant, if he petitions to be adjudged an insolvent, or is adjudged an insolvent, and] fine, suspend, dismiss or remove any village-officer[3] [including the village officers aforesaid] for misconduct or for neglect of duty or incapacity as such village-officer or for non-residence in the village [2][or for any other sufficient cause], and shall record his reason for so doing in writing and furnish a copy of the same to the proprietor and to the village officer concerned. Every village-officer convicted of an offence of the kind mentioned in [4][sub-clause (*e*) of clause (ii) of sub-section (1)] of section 10 shall be dismissed.

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[1] Sub-section (4) was inserted by section 2 of the Madras Village-offices Amendment Act, 1930 (Madras Act VII of 1930).

[2] These words were inserted by section 2 (*g*) of the Madras Proprietary Estates' Village-service and Hereditary Village-offices (Amendment) Act, 1941 (Madras Act XVIII of 1941) re-enacted permanently by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[3] These words and brackets were inserted by *ibid.*

[4] These words, figures, letter and brackets were substituted for the word figure, letter and brackets "sub-section 1 (*e*)" by section 2 (*g*) *ibid.*

Appeals against orders passed under sub-section (2).

(3) Against every order passed by the District Collector or Revenue-officer aforesaid under sub-section (2) an appeal shall lie to the Board of Revenue within three months or to the District Collector within one month, as the case may be.

The decision on appeal of the Board of Revenue or the said Collector, as the case may be, shall be final: Provided that a second appeal shall lie within three months to the Board of Revenue [1] [against any order passed on appeal by the District Collector dismissing or removing a village-officer].

CHAPTER III.

THE VILLAGE-SERVICE CESS; ITS AMOUNT AND APPORTIONMENT AND THE METHOD AND INCIDENTS OF ITS LEVY.

State Government may enfranchise village service inams by imposition of quit-rent.

17. If the remuneration of a village-office consists in whole or in part of lands, or assignments of revenue payable in respect of lands, granted or continued in respect of or annexed to such village-office by the State, [2] [the State Government] may enfranchise the said lands from the condition of service by the imposition of quit-rent under the rule for the time being in force in respect of the enfranchisement of village-service-inams in villages not permanently settled or under such rules as [2] [the State Government] may lay down in this behalf; such enfranchisement shall take effect [3] [from such date as [2] (the State Government] may notify] :

Date from which enfranchisement to take effect.

Provisos.

Provided that the said enfranchisement shall be applicable to all lands or assignments as aforesaid even though, at the time this Act comes into force they may not be devoted to the purpose for which they were originally granted; and provided, further, that any lands or emoluments derived from lands which may have been granted by the proprietor for the remuneration of village-service and which are still so held or enjoyed may be resumed by the grantor or his representative.

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[1] These words were substituted for the words "against the order of the District Collector confirming on appeal the order of the Revenue-officer in charge of the division dismissing a village-officer" by section 2 (*h*), of the Madras Village offices (Amendment) Act, 1941 (Madras Act XVIII of 1941), re-enacted permanently by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] These words were substituted for the words and figures "on or after the date fixed in the notification issued under section 19 for the levy of a village-service cess," by Madras Act III of 1914, section 7.

(Chapter III.—The Village-service Cess; its Amount and Apportionment and the Method and Incidents of its Levy.)

18 to 26. *Repealed by the Madras Proprietary Estates' Village Service (Amendment) Act, 1914 (Mad. Act III of 1914).*

27. On or after the date notified under [1] [the provisions of this Chapter]

Payments in excess of permanent assessment lawful in certain cases.

(1) If in any estate the cost of village-establishments was provided for by a reduction of the permanent assessment on the condition that the amount of such reduction should be devoted to paying the village-establishments, it shall be lawful for [2] [the State Government] to require the proprietor to pay, along with the present permanent assessment, such sum, not exceeding the amount of such reduction as represents the annual remuneration at the time of such reduction of the classes of village-officers brought within the scope of this Act;

(2) Where the said cost of village-establishments was provided for by a deduction from the assets of an estate before its permanent assessment was fixed, it shall be lawful for [2] [the State Government] to require the proprietor to pay, along with the present permanent assessment, a sum equal to that by which it would have been increased had no such deduction been made on account of the remuneration of the classes of village-officers brought within the scope of this Act;

In either of the cases referred to in sub-sections (1) and (2) the proprietor shall no longer be liable for the payment of such classes of village-officers; [3] [* * * *];

Permanent assessment shall be reduced in certain cases.

(3) Where the cost of maintaining any office to which this Act has been extended under section 2, and which is in existence in an estate at the date upon which this Act is extended thereto was included in the assets upon which the permanent assessment of the estate was fixed, the said permanent assessment shall be reduced to the amount at which it would have been fixed had no such inclusion in the assets taken place;

Rent may be raised or reduced in certain cases.

(4) If, in any case, the rent payable to a proprietor in respect of any land has been fixed under an agreement, subsisting on the date of this Act coming into force, to the effect that any portion of the remuneration of the village-officers shall be borne by the tenant or the proprietor, as the case may be, it shall be lawful for the proprietor or tenant to

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[1] These words were substituted for the word and figures "section 19" by Madras Act III of 1914, section 9.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] The words "and the payments made along with the permanent assessment shall be credited to the Proprietary Estates' Village-service Fund" were omitted by Madras Act III of 1914, section 9.

(*Chapter III.—The Village-service Cess; its Amount and Apportionment and the Method and Incidents of its Levy. Chapter IV.—The Village-service Fund; its Constitution and the Payment of Salaries therefrom. Chapter V.—General.*)

apply to the Collector for sanction to increase the said rent or to demand its reduction; and the Collector shall, upon receipt of such application and upon satisfactory proof of the justice of the claim, grant such sanction and increase or reduce the rent to the amount at which it would have been fixed had no such agreement been entered into.

CHAPTER IV.

THE VILLAGE-SERVICE FUND; ITS CONSTITUTION AND THE PAYMENT OF SALARIES THEREFROM.

28. [*Proprietary Estates' Village-service Fund.*] *Rep. by the Mad. Proprietary Estates, Village Service (Amendment) Act,* 1914 (*Mad. Act III of* 1914).

Salaries and allowances of village-officers to be paid after date to be notified.

29. On or after the date notified in any estate under [1][the provisions of Chapter III], the village-officers shall be paid [1][* * * *] the salaries and other allowances to which they may be entitled according to such scale and in such manner as may be prescribed by the Board of Revenue by rules made under section 32.

No fee, etc., to be collected or demanded in respect of village-officers, after date to be notified.

30. On or after the date notified in any estate under [2][the provisions of Chapter III], all fees, contributions and allowances collected or demandable in such estate for the remuneration of village-officers shall absolutely cease and determine.

Penalty for demanding fees, etc.

Whoever, thereafter, in such estate demands, collects or receives such fees, contributions, or allowances shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees.

CHAPTER V.

GENERAL.

31. (1) Every proprietor who wilfully omits—

(*a*) to furnish a register as required by section 5,

(*b*) to submit the name of a minor heir as required by section 13,

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[1]The words and figures "the provisions of Chapter III" were substituted for the word and figures "section 19" and the words "from the aforesaid fund of the district in which the estate is situated" were omitted by Madras Act III of 1914, section 10.

[2]These words and figures were substituted for the word and figures "section 19" by *ibid*, section 11.

[1][* * * * *]

shall be liable to the imposition by the District Collector of a penalty not exceeding one-hundred rupees for every such omission: Provided that a proprietor wilfully omitting to furnish the register required by section 5 shall be liable to a further penalty not exceeding twenty-five rupees for each day during which the omission continues after the imposition of the first penalty. A penalty imposed under this section shall be recoverable in the manner provided in Madras Act II of 1864 for the recovery of arrears of land-revenue. Penalties.

(2) An appeal shall lie within three months against every penalty imposed under this section to the Board of Revenue.

32. The Board of Revenue may, with the approval of [2][the State Government] and after previous publication, make rules not inconsistent with this Act in regard to the following matters :— Power to make rules.

(i) the division, grouping, and amalgamation of villages;

(ii) the educational qualifications required of village-officers;

(iii) the form of register to be prepared under section 5 and the form of notice of appointment to be sent under section 9;

(iv) the salaries and other allowances to be assigned to village-officers and the method of their payment;

(v) the duties of the several village-officers and the descriptions and forms of the accounts and registers to be kept by them;

(vi) the procedure to be followed in conducting inquiries under section 16;

(vii) the custody, production and transfer of the accounts and other records kept by village-officers;

[3][* * * * * *]

(ix) the dates for payment by instalments of quit-rent [3][* *] and the amounts of such instalments;

(x) any other matters calculated to enhance the efficiency of the village-service.

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[1] Clause (c) was omitted by Madras Act III of 1914, section 12. The original clause ran as follows :—

"(c) to furnish the Collector with the list required by section 21."

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] Clause (viii) and the words "and cess" in clause (ix) were omitted by Madras Act III of 1914, section 13. The original clause (viii) ran as follow[s] :—"(viii) the management and audit of the fund constituted under this Act and the accounts to be maintained in connexion therewith."

(*Chapter V—General.*)

Jurisdiction of Civil Courts ousted in certain cases.

[1][33. No Civil Court shall have authority to take into consideration or decide any question regarding the rates or amounts of the quit-rent or payment, under section 27 imposed or levied under this Act.]

In certain cases Board of Revenue to dispose of appeals made to District Collectors.

34. If the officer to whom an appeal is presented under this Act in the capacity of District Collector happens to be the officer who passed the decision which is appealed against in the capacity of Revenue-officer in charge of a division, he shall report the fact to the Board of Revenue, and the appeal shall be disposed of by the said Board, whose decision shall be final.

MADRAS ACT No. III OF 1895.[2]

[THE MADRAS HEREDITARY VILLAGE-OFFICES ACT, 1895.]

[*8th April* 1895 ; *1st July* 1895.]

An Act to repeal Madras Regulation VI of 1831, and for other purposes.

Preamble.

WHEREAS it is expedient to provide more precisely for the succession to certain hereditary village-offices in the Presidency of Madras ; for the hearing and disposal of claims to such offices or the emoluments annexed thereto ; for the appointment of persons to hold such offices and the control of the holders thereof ; and for certain other purposes ; It is hereby enacted as follows :—

Title, commencement and extent.

1. (1) This Act may be called the Madras Hereditary Village-offices Act, 1895 ; and it shall come into force from such date as may be notified by Government.[3]

(2) Section 5 applies to the whole of the Presidency of Madras ; the rest of the Act applies to the whole of the said Presidency except the scheduled districts as defined in the Scheduled Districts Act, 1874. Central Act XIV of 1874.

[1]This section was substituted for the original section 33, by Madras Act III of 1914, section 14.

[2]For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 7th November 1893, p. 2 ; for Report of the Select Committee, *see ibid*, dated 12th November 1893, p. 1 ; for further Report of the Select Committee, *see ibid*, dated 5th February 1895, p. 1 ; for Proceedings in Council, *see ibid*, dated 21st November 1893, p. 21 ; *ibid*, dated 4th December 1894, p. 8 ; *ibid*, dated 5th February 1895, p. 18 ; *ibid*, dated 2nd April 1895, p. 9 ; *ibid*, dated 30th April 1895, p. 1 ; and *ibid*, dated 28th May 1895, p. 1.

It has been extended under s. 5 of the Scheduled Districts Act, 1874 (Central Act XIV of 1874), to all the Scheduled Districts in the Godavari district with the exception of the Ducharti and Guditeru Muttas—*see Gazette of India*, 1896, Pt. 1, p. 249.

This Act is not in force in the taluks of Nugur, Albaka and Cherla, *vide* section 2 (2) of the Nugur, Albaka and Cherla Laws and Cesses Regulation, 1909 (Reg. I of 1909).

[3]The Act was brought into force from 1st October 1895—Revenue Notification No. 464, dated 22nd August 1895, *Fort St. George Gazette*, 1895, Part I, Page 1002.

Repeal.

2. (1) [1] * * * * * * On and after the commencement of this Act, no portion of Madras Regulation XXIX of 1802 shall continue to apply to any local area which is not a permanently-settled proprietary estate.

Amendment of Central Act XXIV of 1859.

(2) From the preamble of Act XXIV of 1859 (an Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George), the words "and improve the condition of the village police" shall be omitted; and, for the definition of the word "Police" in section 1 of the same Act, shall be substituted the following clause, namely :—

"The word 'Police' shall include all persons appointed under this Act."

Amendment of Madras Act II of 1894.

(3) In clause (*c*) of the definition of the word "Estate" in section 4 of the Madras Proprietary Estates' Village Service Act, 1894, after the word "palaiyam" shall be inserted the words "or jaghir"; and, in sub-section (1) of section 15 of the same Act between the words "among the" and the words "holders of the offices," shall be inserted the words "families of the last."

Classes of village-offices to which Act applies.

3. This Act shall apply to the following classes of village-offices, provided that emoluments have been attached thereto :—

[2] (1) hereditary village-offices existing in ryotwari villages or inam villages which for the purpose of village administration are grouped with ryotwari villages and belonging to the following six classes, by whatever designation they may be locally known, namely :—

(i) village munsifs,

(ii) potels, monigars and peddakapus,

(iii) karnams,

(iv) nirgantis,

(v) vettis, totis and tar dalgars,

(vi) talayaris.

The [3][State Government] shall have power to decide what officers come under any of the above classes ;

Madras Act II of 1894.

(2) hereditary village-offices to which the Madras Proprietary Estates' Village Service Act, 1894, is extended ;

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[1]The words and figures "Madras Regulations II of 1806 and VI of 1831 are hereby repealed and" were repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901), Third Schedule.

[2]This clause was substituted by the Repealing and Amending Act, 1907 (Central Act IV of 1907), Schedule A.

[3]The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(3) other hereditary village-offices in proprietary estates except (i) the offices forming class (4) below and (ii) in proprietary estates wherein Madras Regulation XXIX of 1802 remains in force, the office of village accountant;

(4) the hereditary offices of village artizans and village servants such as the following, namely :—

(i) the village carpenter,
(ii) the village blacksmith,
(iii) the village barber,
(iv) the village washerman,
(v) the village potter,
(vi) the village astrologer,
(vii) the village purohit or priest.

Definitions.

4. In this Act, unless there is something repugnant in the subject or context,—

"Emoluments" means and includes—

(i) lands;
(ii) assignment of revenue payable in respect of lands;
(iii) fees in money or agricultural produce;
(iv) money-salaries and all other kinds of remuneration;

granted or continued in respect of, or annexed to, any office by the State.

"Proprietary estate" and "Proprietor" mean, respectively, an Estate and Proprietor as defined in the Madras Proprietary Estates' Village Service Act, 1894, as amended by this Act. Madras Act II of 1894.

"Village" means any local area now recognized as a village or hereafter declared by Government to be a village.

Emoluments attached by the State to certain offices inalienable and not liable to attachment.

5. The emoluments of village-offices, whether such offices be or be not hereditary, and, in the scheduled districts as defined in the Scheduled Districts Act, 1874, all such emoluments and other emoluments granted or continued in remuneration for the performance of duties connected with the collection of the revenue or the maintenance of order, shall not be liable to be transferred or encumbered in any manner whatsoever and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof. Central Act XIV of 1874.

Villages may be grouped or divided.

6. (1) [1] [In any local area in which this Act is in force] the Board of Revenue may, subject to rules made in this behalf under section 20, group or amalgamate any two or more villages or portions thereof so as to form a single new village, or divide any village into two or more villages and, thereupon, all hereditary village-offices [2][of the classes defined in section 3,

[1]These words were substituted for the words and figures "In any local area in which the Madras Village Cess Act, 1893, is in force" by the Repealing and Amednding Act, 1907 (Central Act IV of 1907), Schedule A.

[2]These words and figures were substituted for the words "to which the said Act applies" by *ibid.*

clause (1), of this Act] in the villages or portions of villages or village grouped, amalgamated or divided as aforesaid, shall cease to exist and new offices, which shall also be hereditary shall be created for the new village or villages. In choosing persons to fill such new offices, the Collector shall select the persons whom he may consider the best qualified from among the families of the last holders of the offices which have been abolished. Effect of grouping and division upon village offices.

(2) If two or more village-offices exist [1] [in any ryotwari village or in any inam village which for the purpose of village administration is grouped with a ryotwari village] the Board of Revenue may, subject to the approval of Government, direct that the number of such village-offices shall be reduced and, thereupon, the Collector shall dispense with the services of the officers no longer required, and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices. Reduction of village-offices.

[2][(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), no person shall be deemed to be ineligible for selection under sub-section (1) or retention under sub-section (2) by reason only of his being a minor. If a minor is selected under sub-section (1) or retained under sub-section (2), he shall be registered as the holder of the office and thereafter the procedure laid down in sub-section (5) of section 10 shall be adopted.]

7. (1) [3][The Collector may, of his own motion or on complaint and after inquiry— Power of Collector over village officers in Government villages and proprietary estates.

(*a*) suspend or remove the holder of any of the offices forming sub-classes (i), (ii) and (iii) of class (1) in section 3, if he petitions to be adjudged an insolvent or is adjudged an insolvent ; and

(*b*) fine, suspend, dismiss or remove the holder of any of the offices forming class (1) in section 3, and suspend, dismiss or remove the holder of any of the offices forming class (3) in the said section, for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause.

The Collector shall make a record of his reasons for passing an order under clause (*a*) or clause (*b*) and furnish a copy of the same to the village-officer concerned:]

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[1]These words were substituted for the words and figures " in any village in which the Madras Village Cess Act, 1893, is in force " by the Repealing and Amending Act, 1907 (Central Act IV of 1907), Schedule A.

[2]Sub-section (3) was inserted by section 3 of the Madras Village-offices (Amendment) Act, 1930 (Madras Act VII of 1930).

[3]These paragraphs were substituted for the original paragraph by section 3(*a*) of the Madras Proprietary Estates' Village Service and Hereditary Village-offices (Amendment) Act, 1941 (Madras Act XVIII of 1941), re-enacted permanently by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

Proviso.

Provided that, when a Village Munsif who is also the head of the village is suspended or removed under the Madras Village Courts Act, 1889, such suspension or removal shall involve his suspension or removal from the office of head of the village.

Madras Act I of 1889.

Power of Tahsildar and Deputy Tahsildar over village-officers in Government villages.

(2) A Tahsildar or Deputy Tahsildar may, of his own motion or on complaint and after inquiry, fine the holder of any of the offices forming class (1) in section 3, for any of the causes specified in [1][clause (*b*) of sub-section (1)] and in such amount as the Board of Revenue may, by general or special order, prescribe. The provisions of sub-section (1) in regard to the recording of reasons and the furnishing of copies shall apply to proceedings taken under this sub-section.

Power of proprietor over village-officers in proprietary villages.

8. A proprietor may, of his own motion or on complaint and after inquiry, suspend, dismiss or remove the holder of any of the offices in his estate forming class (3) in section 3, except the village accountant, the head of the village and the village watchman or police-officer, for misconduct or for neglect of duty or incapacity or for non-residence in the village or for any other sufficient cause, and shall make a record of his reasons for so doing in writing and furnish a copy of the same to the village-officer concerned :

Limitation of power of Collector over certain officers in proprietary estates.

9. The powers conferred on a Collector by sub-section (1) of section 7 over the holders of the village-offices forming class (3) in section 3, except the offices of village accountant, head of the village and village watchman or police-officer shall not be exercised, unless, for reasons to be recorded in writing, the Collector is satisfied that the proprietor concerned has neglected to exercise in an adequate manner the powers conferred on him by section 8.

Rules to be observed in making appointments to certain offices in Government villages.

10. When a vacancy occurs in any of the village-offices forming class (1) in section 3, the Collector shall fill up the vacancy in accordance with the provisions of the following sub-sections :—

(1) [2][No person shall be eligible for appointment—

(i) to any of the offices forming sub-classes (i), (ii) and (iii) of class (1) in section 3, if such person has petitioned to be adjudged an insolvent and the petition is pending disposal or if he, having been adjudged an insolvent, has not obtained an order of discharge ; or

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[1]This expression was substituted for the expression "sub-section (1)" by section 3 (*b*) of the Madras Proprietary Estates' Village-service and Hereditary Village-offices (Amendment) Act, 1941 (Madras Act XVIII of 1941), re-enacted permanently by section 2(1) of, and the First Schedule to the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[2]These words and figures were substituted for the words "No person shall be eligible for appointment who" by section 3 (*c*) *ibid.*

(ii) to any of the offices forming class (1) in section 3, if such person] General qualifications requisite in all cases.

[1][* * * *]

(*b*) has not attained the age of majority ;

(*c*) is not physically and mentally capable of discharging the duties of the office ;

(*d*) has not qualified according to the educational test prescribed for the office in question by the Board of Revenue by rules made under section 20 ;

(*e*) has been convicted by a Criminal Court of any offence which, in the opinion of the Collector, disqualifies him for holding the office.

[2][(*f*) has been dismissed from any post under the Government on any ground which the Collector considers sufficient to disqualify him for holding the office.]

(2) The succession shall devolve on a single heir according to the general custom and rule of primogeniture governing succession to impartible zamindaris in Southern India. Primogeniture to be observed.

(3) Where the next heir is not qualified under sub-section (1), the Collector shall appoint the person next in order of succession who is so qualified, and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1). In certain cases person other than direct heir may be appointed.

(4) Where an office has become vacant by the dismissal, [3][removal] or suspension of the last holder, the Collector may direct that, until the death, [3] [re-appointment] or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1) who is not an undivided member of the family of the dismissed, [3][removed] or suspended officer ; provided that, when the officer who has been dismissed, [4] [or removed] dies, or if the officer who has been suspended dies while under suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-sections (2) and (3). Temporary disqualification of heir in certain cases.

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[1]The letter and words " (*a*) is not of the male sex ; " were omitted by the Adaptation (Amendment) Order of 1950.

[2]This sub-clause was added by section 3 of the Madras Proprietary Estates' Village-service and Hereditary Village-offices (Amendment) Act, 1950 (Madras Act IV of 1950).

[3]This word was inserted by section 3 (*d*) of the Madras Proprietary Estates' Village-service and Hereditary Village-offices (Amendment) Act, 1941 (Madras Act XVIII of 1941). This was permanently re-enacted by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[4]These words were inserted by *ibid.*

Procedure to be adopted where heir is a minor.

[1] (5) When the person who would otherwise be entitled to succeed to an office is a minor, the Collector shall register the minor as the heir of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office until the person registered as heir, on attaining majority or within three years thereafter, is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. [2] [If the person registered as heir under this sub-section remains disqualified under sub-section (1) for three years after attaining majority, he shall be deemed to have forfeited his right to the office. On such forfeiture or on his death the vacancy shall be filled up in accordance with the provisions of this section as if he was the last holder of the office.]

Method of filling up vacancy caused by resignation, dismissal, removal or suspension.

(6) If a vacancy is caused by the resignation, dismissal, removal or suspension of the holder of an office, and the Collector does not give the direction referred to in sub-section (4) he shall fill up the vacancy in accordance with the provisions of this section as if it had been caused by the death of the said holder; provided that, upon the expiry of the period of suspension of an officer who has been suspended, or if, for any reason, an officer who has been dismissed, removed or suspended is permitted to resume the office from which he has been dismissed, removed or suspended, the person appointed to fill the vacancy caused by the said suspension, dismissal or removal shall cease to hold office.

Rules to be observed in making appointments to certain offices in proprietary estates.

11. When a vacancy occurs in a proprietary estate in any of the offices forming class (3) in section 3, the proprietor shall fill up the vacancy in accordance with the provisions of the following sub-sections :—

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment who—

[3] [ ]

(*b*) has not attained the age of majority;

(*c*) is not physically and mentally capable of discharging the duties of the office.

Law or custom of succession to be observed.

(2) The succession shall devolve in accordance with the law or custom applicable to the office in question at the date on which this Act comes into force.

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[1] *See* the Madras Proprietary Estates' Village-service and Hereditary Village-offices (Amendment) Act, 1943 (Madras Act XXI of 1943), re-enacted permanently with specified modifications by section 3 of, and the Second Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[2] The portion within square brackets was substituted for the last sentence of sub-section (5) of section 10 by section 3 (ii) of the Madras Village-offices (Amendment) Act, 1930 (Madras Act VII of 1930).

[3] The letter and words "(*a*) is not of the male sex;" were omitted by the Adaptation (Amendment) Order of 1950.

(3) Where the next heir has not qualified under sub-section (1), the proprietor shall appoint the person next in order of succession who is so qualified, and, in the absence of any such person in the line of succession, may appoint any person duly qualified under sub-section (1). In certain cases person other than direct heir may be appointed.

(4) When the person who would otherwise be entitled to succeed to an office is a minor, the proprietor shall register the minor as the heir of the last holder and appoint some other person qualified under sub-section (1) to perform the duties of the office until the person registered as heir is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. [1][If the person registered as heir under this sub-section, on attaining majority, proves to be disqualified under clause (*c*) of sub-section (1), he shall be deemed to have forfeited his right to the office. On such forfeiture or on his death, the vacancy shall be filled up in accordance with the provisions of this section as if he was the last holder of the office.] Procedure to be adopted where heir is a minor.

12. The succession to village-offices forming class (4) in section 3 shall devolve in accordance with the law or custom applicable thereto at the date on which this Act comes into force. In case of village artizans, law or custom of succession to be observed.

13. (1) Any person may sue before the Collector for any of the village-offices specified in section 3 or for recovery of the emoluments of any such office, on the ground that he is entitled under sub-section (2) or (3) of section 10 of the Madras Proprietary Estates' Village Service Act, 1894, or under sub-section (2) or (3) of section 10 or sub-section (2) or (3) of section 11 or section 12 of this Act, as the case may be, to hold such office and enjoy such emoluments; or, being a minor, may sue before the Collector to be registered as heir of the last holder of any such office. Provisions relating to suits for offices for recovery of emoluments and for registry as heir.

Madras Act II of 1894.

Provisos :—

(i) No suit shall be entertained for a mere declaratory decree. No suit for declaratory decree.

(ii) When one of the facts in issue in a suit is whether the emoluments of the office consist of land or of an assignment of revenue payable in respect of land, the Collector shall [2][except where the office is one falling under class (4) in section 3 and the land was on or at any time after the 14th July 1942 in the possession of the person then holding the office] Procedure in case of dispute as to nature of emoluments.

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[1]The portion in square brackets was substituted for the last sentence of sub-section (4) of section 11 by section 3 (iii) of the Madras Village-offices (Amendment) Act, 1930 (Madras Act VII of 1930).

[2]These words and figures were inserted by section 2 of the Madras Hereditary Village-offices (Amendment) Act, 1942 (Madras Act XXVIII of 1942), re-enacted permanently by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

decide the claim on the assumption that only the said assignment constitutes the emoluments ; but such decision shall not bar the right of the claimant to institute a suit in a Civil Court for recovery of the land itself.

[1] [Where the office is one falling under class (4) in section (3) and the land was on or at any time after the 14th July 1942 in the possession of the person then holding the office, the Collector shall, in the absence of evidence to the contrary, presume that the emoluments of the office consist of the land and not merely of an assignment of revenue payable in respect of the land.]

Rejection of plaint when claimant is ineligible for appointment.

(2) If at any time before the completion of the trial of a suit preferred under this section for any office or for the recovery of the emoluments of any office, it appears to the Collector that the claimant is not eligible for appointment under sub-section (1) of section 10 of the Madras Proprietary Estates' Village Service Act, 1894, or under sub-section (1) of section 10 or sub-section (1) of section 11 of this Act, as the case may be, he shall pass an order rejecting the plaint. Madras Act II of 1894.

Limitation of time within which suits may be brought.

14. (1) No suit preferred before a Collector under the last preceding section shall be entertained which is not preferred within three years from the date of the cause of action arising whether such date be before or after the commencement of this Act :

Limitation in case of minority.

Provided that, in the case of a person who, by reason of minority, was disqualified for holding office, the right to sue for such office or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority :

[2] [Provided further that, in the case of a village office for the holding of which minority is not a disqualification, a suit for such office or for the recovery of the emoluments thereof may be preferred at any time after the cause of action has arisen but before the expiry of three years from the date on which the claimant attains majority.]

Limitation of time within which execution of decree or order may be applied for.

(2) No application for the execution of a decree or order passed under this Act shall be entertained, if made after the expiration of one year from the date of such decree or order.

[3] [(3)]

Limitation when appeal preferred.

(4) In cases in which the decree or order sought to be executed was appealed against, [4][the period of limitation

[1] This sentence was added by section 2 of the Madras Hereditary Village-offices (Amendment) Act, 1950 (Madras Act XXXVI of 1950).

[2] This proviso was added by section 3 of the Madras Hereditary Village-offices (Amendment) Act, 1942 (Madras Act XXVIII of 1942) re-enacted permanently by section 2 (1) of and the First Schedule to the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[3] Sub-section (3) was omitted by section 3 (1) of and the Second Schedule to the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

[4] These words, brackets and figure were substituted for the words, (brackets and figures " the periods of limitation prescribed in sub-sections (2) and (3) " by *ibid.*

prescribed in sub-section (2)] shall commence from the termination of the appeal.

Power of District Collector in regard to transfers of suits.

15. The District Collector may transfer to his own file any suit on the file of any Revenue-officer in charge of a division of the district or from the file of one such officer to that of another, or to the file of an Assistant or Deputy Collector not in charge of a division for disposal.

Procedure to be observed in trying suits.

16. (1) The trial of suits under this Act shall be regulated by rules made by the Board of Revenue under section 20 and by the following provisions :—

Date of hearing to be fixed and parties to be heard.

(i) A date shall be fixed for the hearing of the suit and the same shall be notified to the parties who shall be entitled to be heard in person or by agent ;

Witnesses may be produced or summoned.

(ii) The parties shall be entitled to produce witnesses and to demand that any person whose evidence they require shall be summoned as a witness or that any person shall be summoned to produce a document and the officer trying the suit shall comply with such demand, unless, for reasons to be recorded, he considers it unnecessary to do so ;

Record of proceedings.

(iii) The officer trying the suit shall record in his own hand and in English a memorandum containing the material averments of the parties, the material portions of the evidence, his decision and the reasons therefor.

Obligation to obey summons.

(2) Every person to whom a summons is issued under this section shall be legally bound to obey the same.

Decrees may provide for costs and shall be executed according to rules made by Board of Revenue.

17. Decrees and orders passed in suits under this Act may provide for payment of costs according to such scale and subject to such rules as may be prescribed by the Board of Revenue under section 20, and shall be executed in accordance with rules to be made by the Board of Revenue under the said section.

In certain cases, Collector may refer question of law to Board of Revenue.

18. (1) If, before or during the hearing of a suit under this Act or of an appeal against a decree or order passed in a suit under this Act, or if, in the execution of any such decree, any question of law or usage having the force of law, or of the construction of a document which construction may affect the merits, arises, and the officer trying the suit or appeal or executing the decree entertains reasonable doubt on such question, he may, either of his own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement for the decision of the Board of Revenue and shall stay further proceedings until the said decision is communicated to him.

Procedure to be followed in case of such reference.

Decision of Board of Revenue not to be contested.

(2) The Board of Revenue shall, if any of the parties so request, hear him or his agent and shall decide the point referred and transmit a copy of its judgment to the officer by whom the reference was made, and the said officer shall, on receipt thereof, proceed to dispose of the case in conformity with the decision of the said Board, and the correctness of the decision of the said Board shall not be contested in any appeal made under this Act.

[1][19.]

Board of Revenue may make rules on certain subjects.

20. The Board of Revenue may, with the approval of Government and after previous publication, make rules not inconsistent with this Act or with the Madras Proprietary Estates' Village Service Act, 1894, in regard to the following matters :— Madras Act II of 1894.

(i) the division, grouping and amalgamation of villages ;

(ii) the holding of inquiries under sections 6, 7 and 8 and the hearing of appeals under section 23 ;

(iii) the educational qualifications required of the holders of the village-offices forming class (1) in section 3 ;

(iv) the procedure to be followed in disposing of suits and appeals from decrees or orders passed in suits and the registers to be maintained in connexion therewith ;

(v) the execution of decrees and orders passed in suits and the taxation of costs ;

(vi) the salaries and other allowances to be assigned to the holders of the village-offices forming class (1) in section 3 and the method of their payment ;

(vii) the duties of the holders of the village-offices forming classes (1) and (3) in section 3, and the descriptions and forms of the accounts and registers to be kept by them ;

(viii) the custody, production and transfer of the accounts and other records kept by the holders of the village-offices forming classes (1) and (3) in section 3 ;

(ix) the publication of administration reports under * * *[2] the Madras Proprietary Estates' Village Service Act, 1894, and this Act ; Madras Act II of 1894.

(x) any other matters calculated to enhance the efficiency of the village service.

Jurisdiction of Civil Courts barred.

21. No Civil Court shall have authority to take into consideration or decide any claim to succeed to any of the offices specified in section 3 or any question as to the rate or amount of the emoluments of any such office or except as provided in proviso (ii) to sub-section (1) of section 13, any claim to recover the emoluments of any such office :

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[1] This section was omitted by section 3 (1) of and the Second Schedule to the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

[2] The words and figures "The Madras Village Cess Act, 1892," were omitted by the Repealing and Amending Act, 1907 (Central Act IV of 1907), Schedule A, "

Proviso empowering Civil Courts to set aside the decisions of Revenue Courts on the question of jurisdiction.

Provided that, if, in any suit instituted under this Act, the defendant has pleaded before the Collector that a Revenue Court has no jurisdiction to entertain the suit, on the ground that no emoluments, as defined in this Act, appertain to the office in respect of which the suit is brought, and if, on appeal preferred from the decree in such suit, the appellate authority has decided adversely to such plea, the defendant may, within six months from the date of the appellate decree, institute a suit in a Civil Court to set aside such appellate decree on the said ground and on that ground only.

Nothing in this Act to prevent recovery of emoluments as arrears of revenue or to affect office which is not now hereditary.

22. Nothing herein contained shall affect the provisions of section 52 of Madras Act II of 1864 or the provisions of Madras Act IV of 1866 or, except as provided in sub-section (1) of section 6, shall be deemed to create or confer an hereditary right to any village-office.

Appeal against order or decree of Collector.

23. (1) From every order passed by a Collector under section 6 or 7, and from every decree or order passed by a Collector in a suit preferred under section 13, an appeal shall lie, within one month, to the District Collector, or, if the said order or decree was passed by the District Collector, an appeal shall lie, within three months, to the Board of Revenue. The decision, on appeal, of the District Collector or the Board of Revenue, as the case may be, shall be final:

Second appeal in certain cases.

Provided that, in respect of the offices of head of the village and village accountant, a second appeal shall lie, within three months, to the Board of Revenue, against the [1] [decision on appeal of the District Collector—

(*a*) in suits preferred under section 13, or

(*b*) dismissing or removing such village-officer].

Appeals against order of Tahsildar, Deputy Tahsildar, or proprietor.

(2) From every order passed by a Tahsildar or Deputy Tahsildar under sub-section (2) of section 7, and from every order passed by a proprietor under section 8, an appeal shall lie, within one month, to the Collector whose decision shall be final.

[2] [23-A.]

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[1] The portion within square brackets was substituted for the words and figures "decision on appeal of the District Collector in suits preferred under section 13 and in cases of dismissal of a village-officer under section 7" by section 3 (*e*) of the Madras Proprietary Estates' Village-service and Hereditary Village-offices (Amendment) Act, 1941 (Madras Act XVIII of 1941) re-enacted permanently by section 2 (1) of, and the First Schedule to, the Madras Re-enacting Act, 1949 (Madras Act X of 1949).

[2] This section which was inserted by section 1 of the Madras Village offices (Amendment) Act, 1897 (Madras Act II of 1897) was omitted by section 3 (1) of, and the Second Schedule to, the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

Disposal of appeal by officer who passed original order.

24. If the officer to whom an appeal is presented under this Act in the capacity of District Collector or Collector happens to be the officer who passed the decision which is appealed against in another capacity, he shall report the fact to the Board of Revenue or to the District Collector, as the case may be, and the appeal shall be disposed of by the said Board or District Collector and the order passed on appeal shall be final.

Certain provisions of Limitation Act to apply.

25. The provisions of sections 5 and 12 of the Indian Limitation Act, 1877[1], so far as they relate to suits, appeals and applications, shall *mutatis mutandis*, apply to suits, appeals, or applications for the execution of decrees or orders, instituted, preferred or made under this Act. Central Act XV of 1877.

Power of Government to place village watchman under police authorities.

26. The Government may declare that the powers of punishing village officers which are vested in the Collector by this Act and by the Madras Proprietary Estates' Village Service Act, 1894, shall be exercised in any specified local area by the District Superintendent or Assistant Superintendent of Police in respect of all, or any of, the village watchmen or police-officers in that local area. From every order fining, suspending, dismissing or removing a village watchman or police-officer passed by a District Superintendent or Assistant Superintendent of Police by virtue of a declaration made under this section, an appeal shall lie, within one month, to the District Magistrate, whose decision shall be final. Madras Act II of 1894.

MADRAS ACT No. III OF 1896.[2]

[THE MALABAR LAND REGISTRATION ACT, 1895.]

[31*st March* 1896.]

An Act to make better provision for the registration of proprietors of estates subject to the payment of revenue direct to Government in Malabar and the Wynaad.

Preamble.

WHEREAS Regulation XXVI of 1802 provides that landed property paying revenue to Government shall be registered by the Collector; and whereas such landed property in Malabar and the Wynaad has in many cases not been registered

[1] *See* now the Indian Limitation Act, 1908 (Central Act IX of 1908).

[2] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 15th October 1895, p. 3; for Report of the Select Committee, *see ibid*, dated 19th November 1895, p. 1; for Proceedings in Council, *see ibid*, dated 3rd December 1895, p. 7 and *ibid*, dated 7th January 1896, p. 9.

in the names of the proprietors thereof; and whereas it is desirable for the security of the public revenue to provide a summary means whereby the Collector may ascertain such proprietors; It is hereby enacted as follows :—

Short title.

1. (1) This Act may be called the Malabar Land Registration Act, 1895.

Extent.

(2) It extends to the whole of the Malabar district and to that portion of the Nilgiri district which is known as South-East Wynaad.

Interpretation clause.

2. In this Act, unless there is something repugnant in the subject or context,—

"Estate."

"estate" means any land which is subject either now or prospectively to separate assessment to land-revenue payable direct to Government :

"Registered."

"registered" means registered in the public registers maintained by the Collector in accordance with the provisions of Regulation XXVI of 1802.

Proprietor or joint proprietor of an estate may apply for registration within specified time.

3. Within such time as the District Collector may fix as hereinafter provided, any person who is or claims to be the proprietor or joint proprietor of an estate and whose name is not already registered, or any other person having authority to act on his behalf, may make application to the District Collector or to an officer empowered by him to receive such application for registration as proprietor or joint proprietor of the estate.

Collector to fix the date before which proprietor may apply for registration.

4. The District Collector shall fix for each taluk or such other local area as he may deem fit the date before which the proprietors of the estates situated therein may under the last preceding section apply to have their names registered, and may at any time alter any date so fixed :

Proviso.

Provided that such date or altered date shall not be less than two months or more than four months from the date of the publication of the same in the District Gazette.

Publication of date fixed by the Collector.

5. Every date fixed as provided in the last preceding section shall be notified in the Fort St. George and District Gazettes, and by notices to be posted up at the office of the District Collector, at the offices of the Revenue Divisional Officer, District Munsif, Tahsildar, Deputy Tahsildar and Sub-Registrar of Assurances within whose local jurisdiction the local area to which the date applies is situated, and at all police-stations and amshom kachahris within such local area; and shall also be proclaimed by beat of drum within the local area to which the date applies :

Irregularity in publication not to affect validity of proceedings

Provided that no irregularity or omission in the publication of the notices or in the proclamations referred to in this section shall affect the validity of any proceedings under this Act.

Collector to ascertain by summary inquiry the person to be registered.

6. As soon as conveniently may be after the date so fixed, the Collector shall, on a day and at a place to be previously notified in the District Gazette whether or not an application for registration under the preceding sections has been made, and whether or not there is any dispute as to the entry to be made in the register, ascertain and determine by such summary inquiry as he thinks fit, in respect of every estate to which the date applies, the person who, in his opinion, is entitled to be registered as proprietor thereof and shall register him accordingly; and, if any such estate shall not previously have been separately surveyed or demarcated, may cause it to be so surveyed or demarcated, or both.

Collector empowered to cause survey and demarcation of estate.

Registration in the case of estates belonging to joint proprietors or to a religious or charitable foundation.

7. In the case of an estate belonging to joint proprietors who are members of a joint family or to a religious or charitable foundation, the estate shall be registered in the name of the managing member for the time being of such family or of the trustee, manager or superintendent for the time being of such foundation, as the case may be, who shall be described in the register as such managing member, trustee, manager or superintendent, and such registration shall be as effectual and valid as if made in the names of all the joint proprietors or of all the persons interested in such foundation.

Procedure in inquiries under section 6.

8. In any inquiry under section 6 the Collector shall hear any party to a dispute who attends on the day notified or on the day to which the inquiry may be adjourned, and shall receive such evidence as he may see fit; and in the case of a dispute he shall record the nature of the dispute, his decision thereon, the grounds of the decision and such other particulars as he thinks fit.

Notice of the registration to be given in certain cases.

9. (1) If the person registered under section 6 or section 7 has not made an application under section 3, the Collector shall give him notice of the registration by the publication of the fact in the District Gazette and also, if his address is known, by letter sent by post registered.

Procedure when the person registered objects to the registration on receipt of such notice.

(2) If any person to whom notice has been given under this section objects to such registration, he may apply to the Collector within two months of the date of the publication of such notice in the District Gazette or within one month of the receipt of the registered letter containing such notice, whichever is later, to have his name removed from the register, and the Collector shall thereupon consider his objections and shall either remove his name from the register or direct its retention therein as he may see fit; in the former case the Collector shall proceed under section 6 as if no such registration had been made.

Registration subject to revision by Collector and modification by Civil Court.

10. Every registration purporting to be made in accordance with the procedure prescribed by this Act—

(i) may be revised by the Collector on application made within three months, and

(ii) shall be subject to any decree or order which may be passed by any Civil Court of competent jurisdiction : Provided that in any suit to set aside or modify such registration or in any appeal in such suit, in which suit or appeal an order or decree is passed *ex parte* against the [1][Government] or against the Collector, neither the [2][Government] nor the Collector shall be made liable in costs.

Collector to furnish copies of the record on payment of fees.

11. On payment of the prescribed fees, the Collector shall furnish to any person who may apply for the same copies of the record of every inquiry held under this Act and of every order and entry made thereunder or under Regulation XXVI of 1802.

Saving of certain provisions of Regulation XXVI of 1802.

12. Nothing in this Act shall be deemed to affect the provisions of Regulation XXVI of 1802 in respect of the mutation in the register kept by the Collector under that Regulation of the name of the proprietor registered in accordance with the provisions of this Act when a transfer of the proprietary interest in any estate takes place, whether by purchase, inheritance, gift or otherwise.

Registered proprietor to be deemed the land-holder for the purposes of Madras Revenue Recovery Act.

13. Every person registered as proprietor of an estate shall be deemed to be the landholder in respect of such estate within the meaning and for the purposes of the Madras Revenue Recovery Act II of 1864, and no proceedings taken under the said Act against such person or against any land registered in his name shall be deemed invalid or ineffectual by reason of any error in such registration or on the ground that such person was not the real or sole proprietor.

Joint registration of occupants and proprietors permissible in certain cases.

[3][**14.** Notwithstanding anything contained in this Act or in Regulation XXVI of 1802, the Collector may, on the application of the registered proprietor of an estate or of any person entitled to occupy such estate, register as occupant jointly with such proprietor (i) any person who is entitled by virtue of any contract with the proprietor or his predecessor in title to occupy such estate or (ii) any person who is bound by a contract with the proprietor or his predecessor in title to pay to Government the land revenue assessment on such estate. Provided that before ordering joint registration as aforesaid the Collector shall give notice to the proprietor or to the person entitled to occupy, as the case may be, and

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[1] The word "Crown" was substituted for the words "Secretary of State for India in Council" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[2] The word "Crown" was substituted for the words "said Secretary of State in Council" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[3] Section 14 was substituted for the original section by section 2 of the Malabar Land Registration (Amendment) Act, 1920 (Madras Act I of 1920).

consider his objections. [1](Every joint registration made under this section shall remain in force so long as the occupancy continues.)]

Recovery of arrear of revenue from occupants jointly registered with proprietors.

15. In every case in which an occupant of an estate has been registered under the last preceding section and an arrear of revenue has accrued due in respect of such estate subsequent to such registration, the Collector may take proceedings in the first instance against such occupant under the provisions of the Madras Revenue Recovery Act II of 1864, in so far as they relate to the seizure, attachment and sale of movable property or of the crops or ungathered products of land on which an arrear is due :

Provisos.

Provided that nothing herein contained shall debar the proprietor from recovering by suit from such occupant the arrear of revenue or portion thereof which, owing to the default of such occupant, has been paid by, or recovered from him :

Provided further that nothing contained in this section shall be deemed to affect the power of the Collector to recover from the registered proprietor of such estate under any or all of the provisions of the said Act any arrear of revenue which may be due on such estate or on any other estate registered in the name of such proprietor.

Jurisdiction of Civil Courts barred.

16. Except as otherwise provided by this Act, no Civil Court shall have jurisdiction in any matter which the Collector is empowered by or under this Act to dispose of or shall take cognizance of the manner in which the Collector exercises any powers vested in him by or under this Act.

Payment of costs.

17. All costs of any inquiry or proceeding held before, or any survey or demarcation directed by, the Collector under this Act shall be payable by the parties concerned, and the Collector may pass such orders as he shall think fit in respect of the payment of such costs ; and in the event of such costs not being paid on demand may recover the amount thereof in the same manner as if it were an arrear of land-revenue, and pay the sum so recovered to the person entitled to receive it.

Order of District Collector final.

18. Notwithstanding anything contained in Regulations I and II of 1803 of the Madras Code, no appeal shall lie to the Board of Revenue from any order made by the District Collector under this Act.

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[1] The words within brackets were substituted for the words "The Collector shall state in his order the period for which such joint registration shall be in force, which period shall not extend beyond the date of the termination of the contract referred to in this section" by section 2 of the Malabar Land Registration (Amendment) Act, 1934 (Madras Act II of 1935).

19. Subject to the provisions of section 13, nothing contained in this Act and nothing done in accordance with this Act shall be deemed to— Saving clause.

(*a*) preclude the Government or any person from bringing a regular suit for possession of, or for a declaration of right to, any immovable property to which the Government or such person may deem itself, or himself, entitled ; or

(*b*) render a registration under this Act an admission on the part of the Government of the right of the person in whose name such estate may be registered or an admission of the validity of the title under which the estate is held ; or

(*c*) affect the rights of the Government or of any person in respect of any estate or of any interest therein.

20. The Board of Revenue may, after previous publication, make subsidiary rules for the carrying out of the purposes of this Act, and may prescribe the fees, if any, to be paid for the service of summonses issued under Madras Act III of 1869[1] in connection with inquiries and proceedings under this Act. The Board of Revenue may make rules.

21. The [2][State Government] may, by notification, suspend the operation of this Act in any specified portion of the districts to which it applies, and may, by subsequent notification, bring it again into operation. Power to suspend operation of Act.

[3][**22.** The [2](State Government) may, by notification, empower any officer to exercise all or any of the powers of a Collector under this Act.]

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[1] The Madras Revenue Summonses Act, 1869.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] Section 22 was added by section 3 of Madras Act I of 1920.

(Part I.—Preliminary.)

MADRAS ACT No. V OF 1898[1].

[THE MALABAR WILLS ACT, 1898.]

[*9th July* 1898 ; *3rd August* 1898.]

An Act to declare the testamentary power of persons governed by the Marumakkatayam or the Aliyasantana law of inheritance, and to provide rules for the execution, attestation, revocation and revival of the wills of such persons.

Preamble. WHEREAS doubts have arisen regarding the testamentary power of persons governed by the Marumakkatayam or the Aliyasantana law of inheritance ; and whereas it is expedient to remove such doubts, and to provide rules for the execution, attestation, revocation and revival of the wills of such persons ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title. **1.** (1) This Act may be called the Malabar Wills Act, 1898.

Local extent. (2) It extends to the whole of the Presidency of Madras ; and

Commencement. (3) It shall come into force on such date [2] as the [3] [State Government] by notification shall appoint in this behalf :

Provided that nothing in this Act shall be deemed to affect the Hindu Wills Act, 1870.[4] Central Act XXI of 1870.

Interpretation clause. **2.** In this Act, unless there be something repugnant in the subject or context,—

"Minor." (1) "minor" means any person who shall not have completed the age of eighteen years :

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 24th November 1896, p. 2 ; for Report of the Select Committee, *see ibid*, dated 8th May 1898 ; for Proceedings in Council, *see ibid*, dated 12th January 1897, p. 23 ; *ibid*, dated 9th March 1897, p. 45 ; *ibid*, dated 1st February 1898, p. 13 ; *ibid*, dated 3rd May 1898, p. 34 ; and *ibid*, dated 12th July 1898, p. 3.

The Governor-General's assent to this Act was published in the *Fort St. George Gazette*, dated 16th August 1898.

[2] The Act came into force on 2nd September 1898, *see Fort St. George Gazette*, 1898, Pt. I, p. 818, Notification No. 421, 2nd September 1898.

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] Repealed by Central Act XXXIX of 1925.

(2) "will" means any legal declaration of the intentions of the testator with respect to his property which he desires to be carried into effect after his death : "Will."

(3) "codicil" means an instrument made in relation to a will and explaining, altering or adding to its dispositions. It is considered as forming an additional part of the will. "Codicil."

PART II.

OF WILLS.

3. This part shall apply to persons domiciled in the Presidency of Madras who are governed by the Marumakkatayam or the Aliyasantana law of inheritance. Persons to whom this Part shall apply.

4. Every person of sound mind and not a minor may by will dispose of property which he could legally alienate by gift *inter vivos* and shall be deemed to have been always competent so to dispose of such property. Persons capable of making wills.

Explanation I.—Persons who are deaf or dumb or blind are not thereby incapacitated for making a will, if they are able to know what they do by it.

Explanation II.—One who is ordinarily insane may make a will during an interval in which he is of sound mind.

Explanation III.—No person can make a will while he is in such a state of mind whether arising from drunkenness or from illness or from any other cause that he does not know what he is doing.

5. A will or any part of a will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void. Will obtained by fraud, coercion or importunity.

6. A will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by will. Will may be revoked, or altered.

7. Nothing contained in section 4 shall— Saving clause.

(*a*) affect any right established before the commencement of this Act by a final decree of a Court of competent jurisdiction ;

(*b*) authorize a testator to deprive any persons of any right of maintenance of which, but for section 4, he could not deprive them by will ;

(Part II.—Of Wills. Part III.—Of the Execution, Attestation, Revocation, Alteration and Revival of Wills.)

(c) affect any law of intestate succession or authorize any testator to create in property any interest which he could not have created prior to this Act.

PART III.

Of the Execution, Attestation, Revocation, Alteration and Revival of Wills.

Persons to whom this Part shall apply.

8. This part shall apply to persons governed by the Marumakkatayam or the Aliyasantana law of inheritance, whether they are domiciled in the Presidency of Madras or not.

Execution of wills and codicils.

9. All wills and codicils made on or after the date of the commencement of this Act within the Presidency of Madras, and all such wills and codicils made outside the said Presidency so far as relate to immovable property situated within the said Presidency, must be executed according to the following rules :—

1*st*.—The testator shall sign or shall affix his mark to the will, or it shall be signed by some other person in his presence and by his direction.

2*nd*.—The signature or mark of the testator, or the signature of the person signing for him, shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a will.

3*rd*.—The will shall be attested by two or more witnesses, each of whom must have seen the testator, sign or affix his mark to the will, or have seen some other person sign the will in the presence and by the direction of the testator, or have received from the testator a personal acknowledgment of his signature or mark, or of the signature of such other person ; and each of the witnesses must sign the will in the presence of the testator, but it shall not be necessary that more than one witness be present at the same time, and no particular form of attestation shall be necessary.

Incorporation of papers by reference.

10. If a testator, in a will or codicil duly attested, refers to any other document then actually written, as expressing any part of his intentions, such documents shall be considered as forming a part of the will or codicil in which it is referred to.

Witness not disqualified by interest or by being executor.

11. No person, by reason of interest in, or of his being an executor of a will, is disqualified as a witness to prove the execution of the will or to prove the validity or invalidity thereof.

(Part III.—Of the Execution, Attestation, Revocation, Alteration and Revival of Wills.)

Revocation of will or codicil.

12. No will or codicil, nor any part thereof, shall be revoked otherwise than by another will or codicil, or by some writing declaring an intention to revoke the same and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Effect of obliteration, interlineation or alteration in a will.

13. No obliteration, interlineation or other alteration made in any will after the execution thereof shall have any effect, except so far as the words or meaning of the will shall have been thereby rendered illegible or undiscernible, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the will; save that the will, as so altered, shall be deemed to be duly executed if the signature of the testator and the subscription of the witnesses be made in the margin or on some other part of the will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the will.

Revival of a will or codicil.

14. No will or codicil, nor any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any will or codicil, which shall be partly revoked and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown by the will or codicil.

Execution and revocation of will or codicil by soldiers or mariners.

15. No will or codicil made by a soldier employed in an expedition or engaged in actual warfare or by a mariner at sea and no revocation by such person of his will or codicil shall be deemed invalid by reason only of such will, codicil or revocation not being made in accordance with the provisions of this Part.

MADRAS ACT No. III OF 1899.[1]

[THE MADRAS REGISTRATION OF BIRTHS AND DEATHS ACT, 1899.]

[*8th June* 1899.]

An Act to make provision for the Registration of Births and Deaths in rural tracts.

Preamble.

WHEREAS it is expedient to make provision for the registration of births and deaths in rural tracts ; It is hereby enacted as follows :—

Title.

1. This Act may be called the Madras Registration of Births and Deaths Act, 1899.

Extension and withdrawal of Act.

2. The [2][State Government] may, by notification, extend this Act, or any portion thereof, to any local area beyond the limits of the city of Madras and of the municipalities constituted under the Madras District Municipalities Act, 1884,[3] and may also by notification exclude any such local area from the operation of the Act or any portion thereof.

Interpretation clause.

3. In this Act, unless there is something repugnant in the subject or context,—

"Plantation."

[4]['plantation' means any land not less than fifty acres in extent, whether held by one person or by more persons than one as co-owners and whether in one or more blocks, which is being prepared for the production of, or actually produces, tea, coffee, pepper, rubber, cardamom or cinchona or such other products as the [5][State] Government may by order duly notified specify ;]

"Village."

"village" means any local area [6][(exclusive of any plantation)] which for purposes of revenue administration is now recognized as a village or, which may hereafter be

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 22nd November 1898, p. 4 ; for Proceedings in Council, *see ibid*, dated 20th December 1898, pp. 15–22, and *ibid*, dated 28th March 1899, pp. 16–40.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] See now the Madras District Municipalities Act, 1920 (Madras Act V of 1920).

[4] This definition was inserted by section 2 (i) of the Madras Registration of Births and Deaths (Amendment) Act, 1945 (Madras Act XIX of 1945) as modified and re-enacted permanently by section 3 of, and the Second Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[5] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

[6] These words and brackets were inserted by section 2 (ii) of the Madras Registration of Births and Deaths (Amendment) Act, 1945 (Madras Act XIX of 1945) as modified and re-enacted permanently by section 3 of, and the Second Schedule to the Madras Re-enacting (No. II) Act, 1948 (Madras act VIII of 1948).

declared by the [1][State Government] to be a village, and in which local area this Act or any portion thereof is in force :

"registrar" means a person appointed registrar of births and deaths under section 5 of this Act. "Registrar."

District Collector to proclaim that registration will be compulsory.

4. On the publication of a notification under section 2 extending this Act or any portion thereof to any local area, the District Collector shall cause to be proclaimed in the vernacular language by notices posted at the village chavadi or other conspicuous place and by beat of drum in every village [2][or plantation] within the area so notified and by publication in the District Gazette the date from which registration of births and deaths will be compulsory in the said area.

Appointment of registrars.

5. (1) On the publication of such notification, the Collector shall appoint a person either by name or by virtue of any office he may hold to be registrar of births and deaths for each village [3][or plantation], or may if he sees fit divide any village [3][or plantation] into wards and appoint a person either by name or by virtue of any office he may hold to be registrar of births and deaths for each ward.

Registrars to keep registers in the prescribed form.

(2) Every registrar so appointed shall keep in the prescribed form a register of births and deaths for his village, [4][plantation] or ward, as the case may be.

Owners of plantations to bear cost of appointment of registrars.

[5] [**5-A.** (1) If any person in the service of the [6][State] Government is appointed to be registrar for any plantation or ward thereof, the Collector shall determine every year the cost of such appointment to the Government during the previous year; such cost shall include the salary, allowances and travelling allowances of the registrar, contributions, if any, to his provident fund, contributions necessary to meet his leave allowances and pension, and the contingent and other expenditure incurred by him in performing his functions under this Act and the rules made thereunder in respect of the plantation or ward.

(2) The Collector may, by order, direct that the whole of the cost as determined under sub-section (1) for the plantation or for all the wards therein, as the case may be, or such part of the cost as the Collector may think fit, shall be paid by

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[1] The words "Provincial Government" were substituted for the words "Local Government" by Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were inserted by section 3 of the Madras Registration of Births and Deaths (Amendment) Act, 1945 (Madras Act XIX of 1945) as modified and re-enacted permanently by section 3 of, and the Second Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[3] These words were inserted by section 4 (i), *ibid.*

[4] This word was inserted by section 4 (ii), *ibid.*

[5] This section was inserted by section 5, *ibid.*

[6] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

the owner of the plantation before a date which shall be specified in the order.

(3) Any sum ordered to be so paid shall be a charge on the plantation and may be recovered from the owner thereof for the time being, as if it were an arrear of land revenue.]

Registrars to live in their villages or wards.

6. Every such registrar shall, unless otherwise expressly authorized by the Collector in writing, reside within the village, [1][plantation] or ward of which he is the registrar, and shall cause his name, with the addition of registrar of births and deaths for the village, [1][plantation] or ward for which he is so appointed, written in the vernacular language, to be placed in some conspicuous place on or near the outer door of his office.

District Collector to have register printed and supplied.

7. (1) The District Collector shall cause to be printed and supplied a sufficient number of register books for making entries of births and deaths according to such forms and instructions as may, from time to time, be prescribed by the [2][State Government].

Copy of such forms to be posted in the office of the registrar.

(2) A copy of such forms in the vernacular language shall be posted in some conspicuous place on or near the outer door of the office of every registrar.

Information of birth to be given within two weeks.

8. The father of every child, or in case of the death, illness, absence or inability of the father, the midwife assisting at the birth, and in her default every adult male member of the family resident in the house in which the child was born and any person having charge of the child or in default of the above the mother, shall, within two weeks next after the day of such birth, give or cause to be given, either orally or in writing, information to the registrar, according to the best of his knowledge and belief, of the several particulars required to be entered in the forms prescribed under section 7 :

Provisos.

Provided that a person not required to give information in the first instance but only in default of some other person shall not be bound to give information under this Act if he had reasonable cause to suppose that the information had been or would be duly given by such other person :

Provided also that, in the case of an illegitimate child, it shall in the first instance be the duty of the mother of such child to give information under this Act, and no person, shall, as father of such child, be required to give information under this Act concerning the birth of such child, and the registrar shall not enter in the register the name of any person as father

[1]This word was inserted by section 6 of the Madras Registration of Births and Deaths (Amendment) Act, 1945 (Madras Act XIX of 1945) as modified and permanently re-enacted by section 3 of, and the Second Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[2] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

of such child, unless at the joint request of the mother and of the person acknowledging himself to be the father of such child, and unless such person shall sign the register together with the mother.

Information to be given respecting new-born child found exposed.

9. In case any new-born child is found exposed, it shall be the duty of any person finding such child and of any person in whose charge such child may be placed to give, to the best of his knowledge and belief, to the registrar, within seven days after the finding of such child, such information of the particulars required to be registered concerning the birth of such child as the informant possesses.

Information of death to be given within four days.

10. The nearest adult male relative present at the death, or in attendance during the last illness, of any person dying in a village [1][or plantation], or, in case of the default of such relative, every adult male person present at the death, or, in case of their default, the occupier of the house, or in his default every adult male person living in the house in which such death has happened, or in case of the default of such inmate, the person undertaking the disposal of the corpse shall, within four days from the date of death, give or cause to be given, either orally or in writing, information to the registrar, according to the best of his knowledge and belief, of the several particulars required to be entered in the forms prescribed under section 7 :

Provided that a person not required to give information in the first instance, but only in default of some other person, shall not be bound to give information under this Act if he had reasonable cause to suppose that the information had been or would be duly given by such other person.

Head of the village bound to give information regarding other deaths.

11. In case any person is found dead in a village [1][or plantation] under circumstances not covered by section 10, it shall be the duty of the head of the village [2][or, in the case of a plantation, of the person appointed by the Collector in this behalf,] to give forthwith, to the best of his knowledge and belief, to the registrar, such information of the particulars required to be registered concerning such death as the informant possesses.

12. Notwithstanding anything contained in sections 8 and 10 of this Act—

In case of births and deaths in hospital, medical officer in charge to send notice to the registrar,

(1) in case of a child being born or of a person dying in any hospital, it shall be the duty of the medical officer in charge forthwith to send to the registrar a notice in writing

[1] These words were inserted by section 8 (i) of the Madras Registration of Births and Deaths (Amendment) Act, 1945 (Madras Act XIX of 1945) as modified and re-enacted permanently by section 3 of, and the Second Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[2] These words were inserted by section 8 (ii), *ibid.*

of the occurrence of such birth or death containing the several particulars required to be entered in the forms prescribed under section 7;

In case of, births and deaths in choultries, etc., keeper or person in charge to give the information required.

(2) in case of a child being born or of a person dying in any choultry, chattram, hotel, boarding-house, lodging-house, tavern, arrack or toddy shop or place of public resort, it shall be the duty of the owner, keeper or person in charge thereof to give the information required under sections 8 and 10 in the manner specified therein within forty-eight hours of the birth or death, as the case may be.

A person giving oral information to write his name in the register.

13. Every person who has orally given to a registrar any information required under this Act shall write in the register his name, description and place of abode, and, if he cannot write, shall put his mark in the register to his name, description and place of abode, these particulars being in such case entered by the registrar.

When registrar to give extract, free of charge.

14. The registrar shall, as soon as the registration of the birth of a child has been completed, give, on application, free of all charge, to the person who gives information of the birth an extract under his hand from the register relating to such birth.

Registrar to register information without fee or reward and inform himself of every birth and death.

15. Every registrar shall without fee or reward register all information furnished to him under sections 8 to 13, and it shall also be his duty to inform himself carefully of every birth and of every death which takes place in his village, [1][plantation] or ward, and he shall ascertain and register as soon as conveniently may be after the event, the particulars required to be registered according to the forms prescribed under section 7 touching every such birth and death, as the case may be, which has not already been registered.

Registration of name of child.

[2][**16.** Where the birth of any child has been registered without a name, the parent or guardian of such child shall, within thirteen months of the date of its birth, give information regarding the name of the child to the registrar either orally or in writing, and thereupon the registrar shall enter such name in the register and initial and date the entry.]

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[1] This word was inserted by section 9 of the Madras Registration of Births and Deaths (Amendment) Act, 1945 (Madras Act XIX of 1945) as modified and re-enacted permanently by section 3 of, and the Second Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[2] This section was substituted for the original section 16 by section 2 of the Madras Registration of Births and Deaths (Amendment) Act, 1942 (Madras Act II of 1942). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

Search of birth and death register.

17. [1][(1) Subject to any rules which the [2][State] Government may make under section 20, including rules relating to the payment of fees and postal charges, any person may—

(*a*) cause a search to be made by the registrar for any entry in a register of births and deaths; and

(*b*) obtain an extract from such register relating to any birth or death.]

[3][(2)] All extracts given under this section [4][shall be in the form prescribed by rules made under section 20,] shall be certified as provided in section 76 of the Indian Evidence Act, 1872 (I of 1872) and may be produced in proof of the entries of which they purport to be copies.

Penalty for omission to give information, etc.

18. [5][(*a*)] Any person who—

(1) fails without reasonable cause to give any information which it is his duty to give under sections 8, 9, 10, 11, [6][12, and 16] of this Act; or

(2) gives, or causes to be given, for the purpose of being inserted in any register of births or deaths, any information which is false and which he knows or believes to be false touching any of the particulars required to be known and registered; or

(3) refuses to write his name, description and place of abode or to put his mark in the register if required by section 13;

shall, on conviction before a Magistrate, be liable to a fine not exceeding ten rupees.

[5][(*b*) The District Collector may impose a penalty not exceeding twenty-five rupees on any person who,

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[1] This sub-section was substituted by section 2 (i) of the Madras Registration of Births and Deaths (Amendment) Act, 1949 (Madras Act XXXVII of 1949) for that sub-section as substituted for the first paragraph of section 17 by section 10 of the Madras Registration of Births and Deaths (Amendment) Act, 1945 (Madras Act XIX of 1945) as modified and re-enacted permanently by section 3 of, and the Second Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[2] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

[3] The second paragraph of section 17 was numbered as sub-section (2) of that section by section 10 of the Madras Registration of Births and Deaths (Amendment) Act, 1945 (Madras Act XIX of 1945) as modified and re-enacted permanently by section 3 of, and the Second Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[4] These words and figures were inserted by section 2 (ii) of the Madras Registration of Births and Deaths (Amendment) Act, 1949 (Madras Act XXXVII of 1949).

[5] Section 18 was lettered as sub-section (*a*) of that section and to the sub-section as so lettered sub-section (*b*) was added by section 11 of the Madras Registration of Births and Deaths (Amendment) Act, 1945 (Madras Act XIX of 1945) as modified and permanently re-enacted by section 3 of, and the Second Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[6] This word and figures were substituted for the word and figures "and 12" by section 3 of the Madras Registration of Births and Deaths (Amendment) Act, 1942 (Madras Act 11 of 1942). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

having been appointed as registrar under sub-section (1) of section 5, fails without sufficient cause to perform his duties as such.]

Prosecutions not to be instituted except under the order of a Tahsildar or Deputy Tahsildar, or an officer superior to him.

19. (1) No prosecution in respect of any offence punishable under this Act shall be instituted except under the order of [5][a Tahsildar or Deputy Tahsildar] having jurisdiction over the village,[2][or plantation] in which the offence was committed or of an officer to whom [1][the Tahsildar or Deputy Tahsildar] is subordinate.

The District Collector or any officer generally or especially empowered by him in this behalf may stay such prosecution.

Accused persons may appear and be defended by agents.

(2) In prosecutions for offences under the provisions of this Act, the accused person may appear by an agent and may of right be defended by an agent :

Provided that the Magistrate may at any stage of the proceedings, for reasons to be recorded in writing, direct the personal attendance of the accused.

Power of State Government to frame forms and make rules.

20. The [3][State Government] may after previous publication, make rules—

(1) prescribing the forms of registers of births and deaths required to be kept under this Act ;

(2) for the inspection and examination of the registers maintained under section 5 ;

(3) for the conduct of the duties of the registrar during his absence on other duty or on account of illness or other cause ;

(4) for the custody, production and transfer of the registers and other records kept by registrars ;

(5) for the correction of clerical errors which may be discovered in the registers of births or registers of deaths ;

(6) generally to carry out the provisions of this Act.

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[1] These words were substituted for the words " the Tahsildar " by section 2 of the Madras Registration of Births and Deaths (Amendment) Act, 1939 (Madras Act I of 1939).

[2] These words were inserted by section 12 of the Madras Registration of Births and Deaths (Amendment) Act, 1945 (Madras Act XIX of 1945) as modified and re-enacted permanently by section 3 of, and the Second Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[3] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State "was substituted for " Provincial " by the Adaptation Order of 1950.

MADRAS ACT No. IV OF 1899.[1]

[THE MADRAS COURT OF WARDS (AMENDMENT) ACT, 1899.]

[22*nd June* 1899 : 3*rd July* 1899.]

An Act to amend Madras Regulation V of 1804.

[*Repealed except in the Scheduled Areas.*]

MADRAS ACT No. I OF 1900.[2]

[THE MALABAR COMPENSATION FOR TENANTS IMPROVEMENTS ACT, 1899.]

[9*th January* 1900.]

An Act to secure to tenants in the Malabar district compensation for improvements.

Preamble.

WHEREAS it is expedient to amend the law relating to compensation for improvements made by tenants in the Malabar district ; It is hereby enacted as follows :—

Short title and local extent.

1. This Act may be called the Malabar Compensation for Tenants Improvements Act, 1899 ; and it shall be applicable to the whole of the Malabar district.

2. [*Repeal of Act I of* 1887.] *Rep. by the Repealing and Amending Act,* 1901 (*Central Act XI of* 1901).

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[1] Short title, "The Madras Court of Wards (Amendment) Act, 1899" was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 31st January 1899, p. 4 ; for Proceedings in Council, *see ibid,* dated 16th May 1899, p. 55 ; and *ibid,* dated 1st August 1899, p. 16.

The Act has been repealed except in the Scheduled Districts by Madras Act I of 1902.

The Act has ceased to be in force in the Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts, by virtue of section 2 of the Madras Court of Wards Act, 1902, (Madras Act I of 1902), which has been extended to those areas by the Madras (Partially Excluded Areas) Court of Wards Regulation, 1940 (Madras Regulation V of 1940).

[2] For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 13th December 1898 ; for Report of the Select Committee *see ibid,* dated 1st August 1899, p. 1 ; for Proceedings in Council, *see ibid,* dated 14th February 1899, p. 9 ; and *ibid,* dated 12th December 1899, p. 16.

Interpretation-clause.

"Tenant."

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "tenant," with its grammatical variations and cognate expressions, includes a person who as lessee, sub-lessee, mortgagee or sub-mortgagee or in good faith believing himself to be lessee, sub-lessee, mortgagee or sub-mortgagee of land is in possession thereof, or who, with the *bona fide* intention of attorning and paying the customary rent to the person entitled to cultivate or let waste-land, but without the permission of such person, brings such land under cultivation and is in occupation thereof as cultivator :

"Ejectment."

(2) "ejectment" includes redemption or recovery of possession of land mortgaged :

"Improvement."

(3) "improvement" means any work or product of a work which adds to the value of the holding, is suitable to it and consistent with the purpose for which the holding was let, mortgaged or occupied.

What are presumed to be improvements.

4. Until the contrary is shown the following works or the products of such works shall be presumed to be improvements for the purposes of this Act—

(*a*) the erection of dwelling houses, buildings appurtenant thereto, and farm buildings ;

(*b*) the construction of tanks, wells, channels, dams and other works for the storage or supply of water for agricultural or domestic purposes ;

(*c*) the preparation of land for irrigation ;

(*d*) the conversion of one-crop into two-crop land ;

(*e*) the drainage, reclamation from rivers or other waters, or protection from floods, or from erosion or other damage by water, of land used for agricultural purposes, or of waste land which is culturable ;

(*f*) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes ;

(*g*) the renewal or re-construction of any of the foregoing works, or alterations therein or additions thereto ;

(*h*) the planting or protection and maintenance of fruit-trees, timber-trees and other useful trees and plants.

Tenant entitled to compensation on ejectment.

5. (1) Every tenant shall on ejectment be entitled to compensation for improvements which have been made by him, his predecessor in interest, or by any person not in occupation at the time of the ejectment who derived title from either of them, and for which compensation has not already been paid ; and every tenant to whom compensation is so due shall, notwithstanding the determination of the tenancy or the payment or tender of the mortgage-money (if any), be entitled to remain in possession until ejectment in execution of a decree or order of Court.

(2) A tenant so continuing in possession shall during such continuance hold as a tenant subject to the terms of his lease or of the mortgage, as the case may be.

Decree in ejectment to be conditional on payment of amount of compensation ascertained under this Act or the difference between it and the amount, if any, adjudged to the plaintiff from the defendant.

6. (1) In a suit for ejectment instituted against a tenant in which the plaintiff succeeds and the defendant establishes a claim for compensation due under section 5 for improvements, the Court shall ascertain as provided in sections 9 to 18 the amount of the compensation and shall pass a decree declaring the amount so found due and ordering that, on payment by the plaintiff into Court of the amount so found due and also the mortgage-money (if any), the defendant shall put the plaintiff into possession of the land with the improvements thereon.

(2) If in such suit the Court finds any sum of money due by the defendant to the plaintiff for rent or otherwise in respect of the tenancy, the Court shall set-off such sum against the sum found due under sub-section (1), and shall pass a decree declaring as the amount payable to him on ejectment the amount (if any) remaining due to the defendant after such set-off.

Compensation for subsequent improvements and revaluation, if necessary, of improvements at the time of ejectment.

(3) The amount of compensation for improvements made subsequent to the date up to which compensation for improvements has been adjudged in the decree, and the re-valuation of an improvement for which compensation has been so adjudged, when and in so far as such re-valuation may be necessary with reference to the condition of such improvement at the time of ejectment as well as any sum of money accruing due to the plaintiff subsequent to the said date for rent or otherwise in respect of the tenancy, shall be determined by order of the Court executing the decree and the decree shall be varied in accordance with such order.

(4) Every matter arising under sub-section (3) shall be deemed to be a question relating to the execution of a decree within the meaning of clause (*c*) of section 244 of the Code of Civil Procedure. [1]

Tenant may remove buildings, works or trees not deemed improvements, within a time to be fixed.

7. Whenever a Court passes a decree or order for ejectment against a tenant and such tenant has erected any building, constructed any work or planted any tree which the Court finds is not an improvement for which compensation can be claimed, but which the Court finds can be removed without substantial injury to the holding, such tenant may remove such building, work or tree within a time to be fixed by the Court in its decree or order.

[1] See now section 47 of the Code of Civil Procedure, 1908 (Central Act V of 1908).

Powers to make rules for appointment of assessors, etc.

8. The [1][State Government] may, from time to time, by notification in the *Fort St. George and Malabar District Gazettes*, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under section 6 for an improvement, such number of assessors as the [1] [State Government] thinks fit, determining the qualifications of those assessors, the mode of selecting them, the fee payable to them, and the procedure to be followed in case of a difference of opinion between the judge and one or more of such assessors.

Improvement producing an increase in the value of the annual net produce.

9. (1) When the improvement is not an improvement to which section 13 applies and has caused an increase in the value of the annual net produce of the holding, the Court shall determine, as nearly as may be, the average net money value of such increase and the number of years during which such increase may reasonably be expected to continue, and shall then ascertain the present value, at 6 per cent of an annuity equal to such money value for such number of years, and also the cost of making the improvement determined in the manner prescribed in section 11.

(2) If the present value of the annuity does not exceed the cost of making the improvement, the present value shall be the compensation to be awarded.

(3) If the present value of the annuity exceeds the cost of making the improvement, the compensation to be awarded shall be the cost together with one-half of the excess.

Explanation.—The value of the net produce means the amount remaining after deducting from the value of the gross produce, the cost of cultivation and the Government assessment and cesses.

Improvement consisting of trees or plants spontaneously grown during tenancy or sown or planted by tenants.

10. When the improvement is not an improvement to which section 9 applies, but consists of timber trees or of other useful trees or plants spontaneously grown during the period of the tenancy or sown or planted by any of the persons mentioned in section 5, the compenstion to be awarded shall be three-fourths of the sum which the trees or plants might reasonably be expected to realize, if sold by public auction to be cut and carried away.

Other kinds of improvements.

11. When the improvement is not an improvement to which section 9 or 10 applies, the compensation to be awarded shall be the cost of the labour, including supervision thereof, and of the materials, together with other expenditure, if any, which would at the time of the valuation be required to make

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

the improvements less a reasonable deduction on account of the deterioration, if any, which may have taken place from age or other cause.

Value of improvement to be ascertained in the way most favourable to the tenant.

12. Notwithstanding anything contained in sections 9, 10 and 11, the amount of compensation to be awarded for an improvement shall be ascertained in the way prescribed by any of the said sections which is most favourable to the tenant.

Illustrations.

(*a*) The compensation to be awarded for a jack tree as a fruit-tree is ascertained under section 9 to be Rs. 7, but for the same tree as a timber tree it is ascertained under section 10 to be Rs. 10.

(*b*) The compensation to be awarded for an immature casuarina plantation is ascertained under section 10 to be Rs. 20, but under section 11 to be Rs. 100.

In each case, the Court shall award the higher amount.

Improvement consisting in the protection and maintenance of trees and plants not sown or planted by tenants and of trees and plants spontaneously grown prior to tenancy.

13. When the improvement consists in the protection and maintenance of timber or fruit trees or of other useful trees or plants not sown or planted by any of the persons mentioned in section 5, or of such trees or plants spontaneously grown prior to the commencement of the tenancy, the compensation to be awarded shall be the proper cost of such protection and maintenance ascertained as provided in section 11.

Power to frame tables of maximum and minimum rates of compensation.

14. The [1] [State Government] may prepare for the whole or any part of the Malabar district tables showing the maximum and the minimum rates of compensation to be awarded under this Act for all or any class of improvements, and when such tables have been published the amount awarded as compensation under sections 9, 10, 11 and 12 shall not, except where the Court is satisfied that there has been exceptional care, skill or enterprise on the part of the tenant, exceed such maximum rates, nor shall it in any case be less than such minimum rates.

Power to prepare tables of prices of products, the cost of cultivating paddy, planting, protecting, and maintaining trees and plants.

15. (1) For the purpose of determining the amount of compensation to be awarded under this Act, the [1] [State Government] may prepare tables for the whole or any part of the Malabar district showing all or any of the following matters :—

(*a*) the price of coconuts, arecanuts, pepper and paddy ;

[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

(*b*) the cost of—

(i) cultivating and harvesting a crop of paddy;

(ii) planting protecting and maintaining a coconut tree, an arecanut tree, a jack tree, and a pepper vine until the tree or vine is in bearing;

(iii) protecting and maintaining a coconut tree, an arecanut tree, a jack tree and a pepper vine for one year when in bearing.

Such tables to be presumptive evidence that the prices and costs therein mentioned are correct.

(2) The tables prepared under this section shall on publication be receivable in evidence, and the rates and amounts therein specified shall be presumed to be the proper rates and amounts until the contrary is proved: Provided that, in so far as such tables prescribe prices of products, the presumption shall not be rebuttable except by proof of the average price as provided in section 16.

Value to be ascertained where no table has been prepared or the correctness of the price mentioned in the table is disputed.

16. In respect of any product for which no table showing the price has been published, and whenever the presumption under section 15 as to price is sought to be rebutted, the Court shall adopt as the money value, for the purpose of awarding compensation under section 9, the average price as nearly as may be ascertainable, in the taluk where the land is situated, for a period of ten years immediately preceding the institution of the suit.

Tables to be published.

17. The tables prepared under this Act shall be published in English and Malayalam in the *Fort St. George and Malabar District Gazettes*, and shall be kept publicly posted in the Courts having jurisdiction over the area to which the tables apply.

The [1] [State Government] may by like publication cancel or vary from time to time the tables so published.

Compensation may be refused where trees have been overplanted.

18. When trees are planted in excess of the following scale, the Court, if satisfied that, in the circumstances of the particular case, the land is overplanted, may, notwithstanding anything hereinbefore contained, either refuse to grant any compensation, or may grant compensation at a lower rate, for so many of the trees as are in excess of the scale and are immature:—

Coconut trees	120 per acre.
Arecanut trees	720 ,,
Jack trees	60 ,,

In the case of a mixed garden each tree shall be allowed a proportionate fraction of an acre according to the above scale.

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

19. Nothing in any contract made after the first day of January, 1886, shall take away or limit the right of a tenant to make improvements and to claim compenstaion for them in accordance with the provisions of this Act : Contracts affecting tenant's right to make improvements.

Provided that noting herein contained shall affect any agreement in writing registered made after the effecting of the improvements settling the amount of compensation due therefor at the date of such agreement.

20. Nothing in this Act shall be construed as taking away the right of any person who may be entitled by law or custom to claim compensation for any improvements other than those dealt with under the provisions of this Act. Saving clause.

MADRAS ACT No. V OF 1900.[1]

[THE MADRAS IRRIGATION CESS (AMENDMENT) ACT, 1900.]

[*4th September* 1900]

An Act to amend Madras Act VII of 1865.

WHEREAS it is expedient to amend Madras Act VII of 1865 ; It is hereby enacted as follows :— Preamble.

1. Sections 1 and 4 of Madras Act VII of 1865, hereinafter referred to as the said Act, shall be read and construed as if at the time of the passing of the said Act there were and had been inserted in lieu of the said sections the following, viz.— New section substituted for sections 1 and 4.

[*Vide pages* 328 *to* 331 *supra.*]

2. No water-cess which would not have been leviable if this Act had not been passed shall be hereafter levied for any period prior to the 1st July 1899. Limitation on the retrospective effect of section 1.

3. All rules that may hereafter be prescribed by Government under section 1 of the said Act and any alterations or amendments that may hereafter be made in the rules made under that section which are now in force shall be made after previous publication. New rules, etc., under section 1 to be made after previous publication.

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[1] Short title, "The Madras Irrigation Cess (Amendment) Act, 1900"— was given by the Repealing and Amending Act, 1901 (Central Act XI of 1901).

For Statement of Objects and Reasons, *see Fort St. George Gazette* Supplement, dated 8th March 1898, p. 22: for Report of the Select Committee, *see ibid*, dated 3rd March 1900, p. 1 ; for Proceedings in Council, *see ibid*, dated 3rd May 1898, p. 34 ; *ibid*, 12th December 1899, p. 16 ; and *ibid*, 12th June 1900, p. 176.

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(*Chapter I.—Preliminary.*)

MADRAS ACT No. I OF 1902.[1]

[THE MADRAS COURT OF WARDS ACT, 1902.]

[27*th May* 1902.]

An Act to consolidate and amend the law relating to the Court of Wards in the Madras Presidency.

WHEREAS it is expedient to consolidate and amend the law relating to the Court of Wards in the Presidency of Madras ; It is hereby enacted as follows :— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Madras Court of Wards Act, 1902. Short title.

It extends to the Presidency of Madras exclusive of the scheduled districts.[2] Extent.

2. Section 25 of the Madras Collectors Regulation, 1803, the Madras Court of Wards Regulation, 1804, the Madras Minors Act, 1855, and the Madras Court of Wards (Amendment) Act, 1899, are hereby repealed. Laws repealed.

Mad. Reg. II of 1803.
Mad. Reg. V of 1804.
Central Act XXI of 1855.
Mad. Act IV of 1899.

3. Nothing in this Act shall be construed to affect or in any way to derogate from any power possessed by the High Court of Madras over the persons and estates of infants, idiots and lunatics. Jurisdiction of High Court saved.

4. In this Act, unless there is something repugnant in the subject or context : Definitions.

"The Court" means the Court of Wards. "Court".

"Ward" means a person who has been made a ward of the Court under section 19. "Ward".

"Minor" means a person who, under the provisions of the Indian Majority Act, 1875, as amended by section 52 of the Guardians and Wards Act, 1890, has not attained majority. "Minor."

Central Act IX of 1875.
Central Act VIII of 1890.

"Proprietor" means a person who owns or has a life interest in land either solely or as a co-sharer. "Proprietor."

[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1901, Extraordinary, p. 15 ; for Report of the Select Committee, *see ibid*, 1902, Extraordinary, p. 1 ; and for Proceedings in Council, *see ibid* 1901, Pt. IV, pp. 44, 74, and *ibid*, 1902, Pt. IV, pp. 46, 89, 123.

[2] The Act has been extended to the Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts by the Madras (Partially Excluded Areas) Court of Wards Regulation, 1940 (Madras Regulation V of 1940).

(Chapter II.—The Court of Wards. Chapter III.—Assumption of Superintendence of Persons and Property.)

CHAPTER II.

THE COURT OF WARDS.

Court of Wards.

5. The Board of Revenue shall be the Court of Wards for the territories to which this Act extends, and for the purposes of this Act, Collectors shall be subject to the control of the Court.

Control of State Government.

6. The Court of Wards shall be subject to the control of the [1] [State Government], and the [1] [State Government] may, if it thinks fit, revise, modify or reverse any order passed or proceedings taken under this Act, whether a petition is presented against such order or proceeding or not.

Distribution of business.

7. (1) Sections 2, 3 and 4 of the Madras Board of Revenue Act, 1894, shall, so far as may be, apply to the Board of Revenue when exercising jurisdiction as the Court of Wards. Mad. Act I of 1894.

Secretary may sign for Court.

(2) It shall in all cases be lawful for a Secretary of the Board of Revenue to sign on behalf of the Court.

Powers of Court how exercised.

8. The Court may exercise all or any of the powers conferred on it by this Act through the District Collectors in whose districts any part of the property of the ward may be situated or through any other person whom it may appoint for the purpose; and may confer any of its powers on any such Collector or person and withdraw any powers so conferred.

CHAPTER III.

ASSUMPTION OF SUPERINTENDENCE OF PERSONS AND PROPERTY.

Disqualification.

9. The following proprietors shall be deemed to be disqualified for the management of their property :—

(*a*) Minors.

(*b*) Women declared by the [1] [State Government] to be incapable of managing their property.

(*c*) Proprietors adjudged by a competent civil court to be of unsound mind and incapable of managing their property.

(*d*) Proprietors declared by the [1] [State Government] to be incapable of managing their property owing to any physical or mental defect or infirmity rendering them unfit to manage their property.

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

(Chapter III.—Assumption of Superintendence of Persons and Property.)

Immediate protection of disqualified heirs.

10. (1) Whenever a Collector receives information that a proprietor of land situated in his division or district has died, and he has reason to believe that the heir of such proprietor is, or should be declared to be, disqualified under section 9,—

(*a*) he may take such steps and make such order as he thinks proper for the temporary custody and protection of the property which he has reason to believe to belong to the heir ;

(*b*) if the heir be a minor he may direct that the person, if any, having custody of the minor, shall produce him or cause him to be produced, at such place and time, and before such person, as he appoints, and may make such order for the temporary custody and protection of the minor as he thinks proper ;

(*c*) female minors who ought not to be compelled to appear in public shall be produced in accordance with the manners and the customs of the country.

(2) If the Collector taking action under sub-section (1) is not the District Collector, he shall report the matter forthwith to the District Collector, who shall decide whether to direct the Collector to withdraw, or himself to report the matter to the Court as provided in section 12.

Recovery of expenditure.

11. All expenses incurred by a Collector, acting under section 10, shall, whether the property is afterwards taken under the superintendence of the Court or not, form a charge upon the property concerned, and shall be recoverable from the owner of such property, or the person whom the Collector shall find to be in possession of such property, as an arrear of land-revenue.

Report by District Collector.

12. Whenever any District Collector, after making such inquiry as he deems necessary, has reason to believe that any proprietor in his district is, or should be declared to be, disqualified under section 9, he shall submit a report to the Court setting forth all the circumstances of the case: Provided that in the case of proprietors of land on which the annual revenue payable to Government is less than Rs. 10,000 or of which the annual rent value as defined in the Madras Local Boards Act, 1884,[1] is less than Rs. 20,000, the District Collector need not report the case to the Court unless he is of opinion that the Court ought to assume the superintendence of the property: Provided also that the Court or the [2] [State Government] may call for a report on any case if it thinks fit.

Madras Act V of 1884.

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[1] *See* now the Madras District Boards Act, 1920 (Madras Act XIV of 1920).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(Chapter III.—Assumption of Superintendence of Persons and Property.)

Proprietor to be given opportunity to be heard and to adduce evidence.

13. (1) Before reporting to the Court under section 12 that a proprietor ought to be declared to be disqualified under clause (*b*) or (*d*) of section 9, the District Collector shall give notice to such proprietor and afford him a reasonable opportunity to be heard and to adduce evidence.

(2) All questions as to whether the provisions of this section have been complied with shall be decided finally by the [1] [State Government].

Report by Court.

14. The Court shall consider the Collector's report and except in the case of female proprietors, not being minors, whom it decides to leave in charge of their property, shall report the case to the [1] [State Government] with its recommendation and pending the receipt of orders shall have power to take such steps as it may deem necessary for the protection of the person and property of the proprietor in question.

State Government may declare proprietor disqualified and direct Court to assume superintendence.

15. The [1] [State Government] on receipt of the Court's recommendation, may in any case falling under clause (*b*) or (*d*) of section 9 declare the proprietor to be disqualified, and in any case falling under section 9 may order the Court to assume the superintendence of the person or property of the proprietor or of both.

Proprietor not to be declared disqualified under section 9 (*d*) unless on ground of public interests.

16. The [1] [State Government] shall not declare any proprietor to be disqualified under clause (*d*) of section 9 unless satisfied that it is expedient in the public interests that his property should be managed by the Court, and statement to this effect shall be inserted in the declaration made by the [1] [State Government] as provided in section 15.

Provision to meet case of undivided Hindu families and co-sharers.

17. (1) The [1] [State Government] shall not order the Court to take the property of an undivided Hindu family under its superintendence unless all the co-parceners are, or are declared to be, disqualified under section 9.

(2) When two or more proprietors are co-sharers otherwise than as co-parceners in an undivided Hindu family and one of such co-sharers is, or is declared to be, disqualified under section 9, the [1] [State Government] may order the Court to institute a suit for partition on behalf of the disqualified proprietor and to take under its superintendence the property allotted to such proprietor in the partition.

Application by proprietor himself.

18. A proprietor may make application to the [1] [State Government] to have his property placed under the superintendence of the Court, and the [1] [State Government] may, on being satisfied that it is expedient in the public interests

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(Chapter III.—Assumption of Superintendence of Persons and Property. Chapter IV.—Management and Guardianship.)

that such property should be managed by the Court, make a declaration to that effect and order the Court to assume the superintendence of such property.

Notification of assumption of superintendence.

19. (1) Whenever under section 15 or 18 the [1] [State Government] orders the Court to take under its superintendence the person or property of a proprietor or both, such order of the [1] [State Government] together with any declaration made under the aforesaid sections, shall be notified in the [2] [Official Gazette] and also in the Gazette of the district in which such property or any portion thereof is situate. The notification shall specify the District Collector who shall discharge the duties imposed upon a Collector by this Act in respect of such person or property or both, as the case may be.

Consequences of such notification.

(2) Such proprietor shall be deemed to have become a ward under the Court, from the date of the said order of the [1] [State Government] and the superintendence of his person or property or of both shall take effect from the said date, and as to property shall extend to all movable and immovable property belonging to him at the date of the order, or to which he shall afterwards become in any way entitled whilst he continues under such superintendence :

Provided that it shall be in the discretion of the Court to assume or refrain from assuming the superintendence of any property which the ward may acquire otherwise than by inheritance subsequent to the date of the order of the [1] [State Government] under section 15 or 18.

CHAPTER IV.

MANAGEMENT AND GUARDIANSHIP.

Collector to take charge of ward's property.

20. When the Court has assumed the superintendence of the property of a ward, the District Collector specified in the notification under section 19 or if so directed by the Court, the Collector of the district in which any part of the property is situated shall take possession and custody of such property on behalf of the Court.

21. It shall be lawful for such Collector—

Powers of Collector in so doing.

(*a*) to order any person in possession of any movable property to the possession of which the ward is entitled or of any accounts or papers relating to the property of such ward, to deliver up such movable property, accounts or papers ;

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[1] The words " Provincial Government " was substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

(*b*) in case there is reason to believe that any movable property to the possession of which the ward is entitled or any accounts, or papers relating to the property of the ward are to be found in any room, box, or receptacle within any house in the actual possession of the ward, to break open such room, box or receptacle or authorize the same to be broken open for the purpose of searching for such property, accounts or papers ;

(*c*) to order any person who is or has been in the employ of the ward, and any person who was in the employ of the deceased proprietor, if any, from whom the ward derives his title, to attend before him for examination and to defray the necessary expenses of any person so attending out of the assets of the estate ;

(*d*) to order all holders of tenures and under-tenures on the ward's property to produce their titles before him.

Allowances for ward and family.

22. The Court may determine what sums shall be allowed for the expenses of the ward and of his family and dependants.

Custody, residence, education and marriage of ward or minor relatives.

23. The Court may make such orders and arrangements, as to it may seem fit, in respect of the custody, residence, education and marriage—

(*a*) of any ward whose person is for the time being under its superintendence,

(*b*) of any minor child, minor brother, or minor sister of such ward, who, in the opinion of the Court, is entitled to maintenance at the charge of the ward's estate,

(*c*) of the ward's next male heir being a minor and also so entitled to maintenance.

Appointment, etc., of managers and guardians.

24. (1) The Court may appoint managers for the property, and guardians for the person, of any ward, and may control or remove any manager or guardian so appointed :

Provided that it shall not appoint a guardian for any person who has become a ward in pursuance of an order under section 18.

(2) Any appointment made under this section shall terminate when the Court ceases to exercise superintendence over the person for whom a guardian, or over property for which a manager, has been appointed.

Collector to act if there are none.

25. If no manager of the property or guardian of the person of a ward is appointed by the Court, or the office is temporarily vacant, the District Collector specified in the notification under section 19, or any other Collector whom the Court may appoint in this behalf, shall be competent, under the control of the Court, to do anything that might be done by such manager or guardian.

(*Chapter IV.—Management and Guardianship.*)

Who may and may not be guardians.

26. (1) No person being the next legal heir of a ward, or appearing to have a direct or indirect advantage in the death or continued disqualification of such ward, shall be appointed guardian of such ward :

Provided that the mother of a ward, or any person appointed guardian by the will of a person authorized to make such appointment may be appointed guardian by the Court at its discretion.

(2) A female guardian shall be appointed for a female ward, and a male guardian for a male ward above seven years of age, unless, in any case, the Court, for special reasons, shall direct otherwise :

Provided that no guardian shall ordinarily be appointed for a female ward if she has an adult husband.

Duties of guardians.

27. A guardian appointed under section 24 shall be charged with the custody of the ward, and, subject to the control of the Court, shall make suitable provision for his maintenance and health, and, if he be a minor, for his education, and for such other matters as are required by the personal law to which the ward is subject, and shall—

(*a*) give such security (if any), as the Court thinks fit, for the due performance of his duty ;

(*b*) submit such accounts as the Court may direct ;

(*c*) pay the balances due from him thereon ;

(*d*) continue liable to account to the Court after he has ceased to be guardian for his receipts and disbursements during the period of his guardianship ;

(*e*) apply for the sanction of the Court to any act which may involve expense, not previously sanctioned by the Court ;

(*f*) be paid such allowance out of the property of the ward as the Court thinks fit.

Powers of manager.

28. Every manager appointed by the Court shall have power, subject to the control of the Court, to collect the rents of land placed under his charge, as well as all other money due to the ward, and to grant receipts therefor, and may under the orders of the Court, grant or renew such leases as may in his opinion be necessary for the good management of the property, and do all such lawful acts as he may be generally or specially authorized by the Court to do for the good management of the property.

Duties of manager.

29. Every manager appointed by the Court shall manage the property placed under his charge diligently and faithfully and shall—

(*a*) give such security, if any, as the Court thinks fit duly to account for what he may receive in respect of the rents and profits of the property under his charge ;

(*b*) keep such accounts in such form and submit them at such times as the Court may direct ;

(*c*) deal with all moneys received by him in such manner as the Court may direct ;

(*d*) apply for the sanction of the Court to any act which may involve the property in expense not previously sanctioned by the Court ;

(*e*) be responsible for any loss occasioned to the property by his negligence or wilful default ;

(*f*) continue liable to account to the Court after he has ceased to be manager for his receipts and disbursements during the period of his managership ;

(*g*) be paid such allowance out of the property of the ward as the Court thinks fit.

Employees of Court deemed to be public servants.

30. Every guardian, manager, or other servant of the Court, shall be deemed to be a " public servant " within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code, and in the definition of legal remuneration contained in the said section 161, the word " Government " shall for the purposes of this section, be deemed to include the Court. Central Act XLV of 1860.

Manager and other servants to be deemed to be public accountants and amenable to Madras Regulation IX of 1822.

31. Every manager or other servant of the Court entrusted with the receipt, custody or control of moneys or securities for money on behalf of the Court or with the management of any property under its superintendence shall be deemed to be a public accountant within the meaning of the Public Accountants' Default Act, 1850, and shall be amenable to the provisions of the Madras Revenue Malversation Regulation, 1822, as if he were a [1] [ ] servant of the Collector's public establishments. Central Act XII of 1850. Mad. Reg. IX of 1822.

Regulation of expenditure.

32. Unless the Court otherwise directs, all moneys received by, or on behalf of, the Court on account of the property of any ward, shall be employed in meeting the charges included in Class I hereinafter specified before it is employed in meeting the charges in Classes II and III hereinafter specified, and in meeting the charges in Class II before it is employed in meeting those in Class III.

Class I.

Charges necessary for the maintenance, residence, education, marriage and indispensable religious observances of the ward and his family.

Charges necessary for the management and supervision of the property of the ward.

Charges on account of Government revenue and of all cesses and other public demands due in respect of such property, or any part of such property.

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[1] The word " native " was omitted by the Adaptation (Amendment) Order of 1950.

(*Chapter IV.—Management and Guardianship.*)

Class II.

Charges on account of rent, cesses or demands due to any superior landholder in respect of any land held on behalf of the ward.

The liquidation of debts payable by the ward.

Expenses necessary to protect the interests of the ward in the civil courts or otherwise.

The maintenance in efficient condition of the estates, buildings and other immovable property and the suitable upkeep of the furniture, equipage, live-stock and other movable property belonging to the ward.

Class III.

The payment of such charges for the religious observances of the ward and his family and of such religious, charitable and other allowances, and of such donations befitting the position of the ward's family, as the Court may authorize to be paid.

The prevention and relief of distress among the ward's tenantry.

The improvement of the land and property of the ward and the benefit of the ward and his property generally.

Surplus how to be dealt with.

33. Any surplus which remains after providing, so far as the Court deems fit for the objects mentioned in section 32, shall be applied in the purchase of other landed property, or invested at interest on the security of—

(*a*) promissory notes, debentures, stock and other securities of the [1] [Central Government] ;

[2] [(*b*) bonds, debentures and annuities charged by the Parliament of the United Kingdom before the 15th day of August 1947 on the revenues of India or of the Governor-General in Council or of any Province ;]

(*c*) stock, or debentures of, or shares in, railways or other companies, the interest whereon has been guaranteed by the Secretary of State for India in Council ;

(*d*) debentures, or other securities for money, issued by, or on behalf of, any local authority under the authority of [3] [any Central Act, any Provincial Act as defined in clause (46) of section 3 of the General Clauses Act, 1897, or any Act of the Legislature of a Part A State or a Part C State] ;

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[1] These words were substituted for the words " Government of India " by the Adaptation Order of 1937.

[2] This clause was substituted by the Adaptation (Amendment) Order of 1950 for the original clause as amended by the Adaptation Order of 1937.

[3] The portion within square brackets were substituted for the words " any Act of a Legislature, established in British India " by the Adaptation Amendment) Order of 1950.

(Chapter IV.—Management and Guardianship.)

(*e*) such other securities, stock, or shares guaranteed by the [1] [Central Government] or the [2] [State Government] as the Court shall deem fit ; or,

(*f*) first mortgages of immovable property situate in [3] [a Part A State or a Part C State] provided that the property is not a leasehold for a term of years and that the value of the property exceeds by one-third or if consisting of buildings, exceeds by one-half, the mortgage-money.

[4] [34. (1)] A ward shall not be competent—

Disabilities of wards.

(*a*) to transfer or create any charge on, or interest in, any part of his property which is under the superintendence of the Court, or to enter into any contract or to make any acknowledgment involving him in pecuniary liability personally or in respect of such property : but nothing in this clause or in section 23 shall be deemed to affect the capacity of a ward to enter into a contract of marriage : provided that he shall not incur in connection therewith any pecuniary liability, except such as, having regard to the personal law to which he is subject, and to his rank and circumstances, the Court may, in writing, declare to be reasonable ;

(*b*) to grant valid receipts for the rents and profits arising or accruing from such property or for debts or other moneys due to the estate ;

(*c*) to adopt or to give a written or verbal permission to adopt, without the consent of the Court ;

(*d*) to dispose of his property by will without the consent of the Court :

Provided first, that the Court shall not withhold its consent under clause (*c*) or (*d*) if the adoption or testamentary disposition is not contrary to the personal or special law applicable to the ward, and does not appear likely to cause pecuniary embarrassment to the property, or to lower the influence or respectability of the family in public estimation :

Provided, secondly, that the Court may confirm a will or an adoption made, or a permission to adopt given, without its previous consent :

Provided thirdly, that the provisions of clauses (*c*) and (*d*) shall not apply to any proprietor in regard to whose property a declaration has been made under section 18.

[5] [(2) No claim under section 68 of the Indian Contract Act, 1872, shall be enforceable against the property of a ward

Central Act IX of 1872.

[1] These words were substituted for the words "Government of India" by the Adaptation Order of 1937.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] These words were substituted for the words "British India" by the Adaptation (Amendment) Order of 1950.

[4] Section 34 was renumbered as sub-section (1) of section 34 by section 2 of the Madras Court of Wards (Amendment) Act, 1933 (Madras Act XVII of 1933).

[5] This sub-section was added by *ibid.*

(Chapter IV.—Management and Guardianship.
Chapter V.—Ascertainment and Settlement of Debts.)

which is under the superintendence of the Court; but the Court may, in its discretion, satisfy in whole or in part, any such claim.]

Powers of Court as to property under its superintendence.

35. The Court may mortgage or sell the whole or any part of any property under its superintendence and may give leases or farms of the whole or any part of such property for such terms as it thinks fit, and may make remissions of rent or other dues, and may generally pass such orders and do such acts not inconsistent with the provisions of this or any other Act for the time being in force as it may judge to be for the advantage of the ward or for the benefit of the property.

Establishments and distribution of charges.

36. The Court may order such establishments to be employed and charges to be incurred as it shall consider requisite for the care and management of the persons and properties under its superintendence, and generally for all the purposes of this Act, and may order that such charges shall be borne by and distributed amongst the said properties in such proportions as it deems fit.

CHAPTER V.

Ascertainment and Settlement of Debts.

Notice calling upon claimants to notify claims.

37. (1) On the publication of a notification under section 19, the District Collector therein specified may, at any time with the previous sanction of the [1] [State Government] publish in the Gazette of the district or districts in which such property may be situate a notice in English and in the vernacular calling upon all persons having pecuniary claims, whether immediately enforceable or not against the ward or his property to notify the same in writing to the Collector within six months from the date of such notification.

(2) The notice shall also be published at such places and in such other manner as the Court may, by general or special order, direct and shall be sent by registered post to every person who is known to the Collector as having a pecuniary claim against the ward or his property and of whose address the Collector is credibly informed.

(3) The [1] [State Government] may at any stage of the proceedings under sections 37, 38 and 40 invest any person either by name or in virtue of his office with the powers of a Collector for any or all of the purposes of these sections.

Explanation.—A claim shall be deemed to be pecuniary for the purpose of this section and sections 38 and 41 notwithstanding that a suit for its enforcement or a reference of such claim to arbitration is pending or that a decree or award has been passed establishing the same.

[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

(Chapter V.—Ascertainment and Settlement of Debts.)

Claimants to furnish full particulars and documents.

38. (1) Every such claimant shall within the period prescribed by section 37, notify to the Collector in writing his claim with full particulars thereof :

Provided that any claim presented after the expiration of such period and within a further period of six months may be admitted if the claimant staisfies the Collector that he had sufficient cause for not notifying the claim at an earlier date.

(2) Every document (including entries in books of account) in the possession of or under the control of the claimant on which he founds his claim, shall be produced before the Collector with the statement of claim or within such time after the preferring of the claim as may be allowed by the Collector in that behalf :

Provided that if the claim relates to an amount secured by a decree or award, it shall be sufficient for the claimant to produce before the Collector a certified copy of the decree and a certificate from the Court which passed or is executing the same declaring the amount recoverable thereunder or a true copy of the award and a statement of the sum recoverable thereunder as the case may be ; and if the claim is pending adjudication in any court or has been referred to arbitration, it shall be sufficient for the claimant to produce a certified copy of the plaint or a true copy of the reference to arbitration as the case may be.

(3) It shall be lawful for the Collector to require the production by any claimant of such of the documents in his possession or power relating to his claim other than the documents, if any, produced under sub-section (2) as the Collector may consider necessary.

(4) Unless the Collector shall otherwise direct, every document produced under this section shall be accompanied by a true copy thereof. The Collector shall mark the original document for the purpose of identification and, after examining and comparing the copy with it, shall retain the copy and return the original to the claimant.

Pecuniary claim of the Government, etc., not affected.

39. Nothing contained in sections 37 and 38 shall apply to any pecuniary claim of [1] [the Government] or any local authority, or to claims for maintenance or for wages or salaries due to servants.

Claims admitted and disallowed.

40. The Collector shall after making such inquiry as he may deem fit, decide which claims notified or admitted under section 38 are to be allowed in whole or in part, and which are to be disallowed, and, on his decision being confirmed by the Court, shall give written notice of the same to the claimants :

[1] The words " the Crown " were substituted for the word " Government " by the Adaptation Order of 1937 and the word " Government " was substituted for " Crown " by the Adaptation Order of 1950.

Provided that nothing herein contained shall be construed as precluding any claimant from continuing or instituting proceedings in any civil court in respect of any claim whether such claim be allowed or disallowed by the Court in whole or in part.

Claims not notified cease to carry interest, etc.

41. Every pecuniary claim against the ward or his property which has not been duly notified to, or admitted by the Collector under section 38 shall notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the expiration of the period prescribed by section 37, and shall not be paid until after the discharge or satisfaction of the claims notified or admitted under section 38.

Inadmissibility in evidence of documents not produced.

42. No document in the possession or under the control of the claimant which should have been, but has not been, produced in accordance with the requirements of section 38 shall be admissible in evidence against the ward or his representative in any suit brought by or against the claimant, or any person claiming under him unless it be proved to the satisfaction of the civil court that it was not within his power to produce such document before the Collector.

When mortgagee in possession may be dispossessed.

43. (1) When any property of a ward is in the possession of a mortgagee, or any person claiming under a mortgagee, the [1] [State Government] may, on being satisfied that it is expedient in the public interests that the estate should be preserved and that such incumbrancer should deliver up possession of the mortgaged property, make a declaration to that effect, and direct the Court to take possession thereof; the Court shall, thereupon by an order in writing, require such incumbrancer to deliver up possession of the same to the manager at the end of the then current revenue year.

(2) If such incumbrancer refuses or neglects to obey such order, the Collector may, without resorting to a civil court, enter upon the property, and summarily evict therefrom the said incumbrancer and any other person obstructing or resisting on his behalf.

(3) The dispossession of the incumbrancer under sub-sections (1) and (2) shall not deprive him of any summary powers which he would have had under the Madras Rent Recovery Act, 1865 [2], for the recovery of arrears of rent due to him at the date of his dispossession.

Madras Act VIII of 1865.

(4) If in the instrument of mortgage under which the incumbrancer is in possession of the property, no rate of interest is specified, the Collector, shall, in cases where the mortgage debt has been notified to or admitted by him, offer

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] Repealed by Madras Act I of 1908.

to the incumbrancer the rate of interest which appears to him to be reasonable; and pass an order fixing the rate accordingly. Copy of the order shall be served upon the incumbrancer in the manner prescribed by the Code of Civil Procedure[1] for service of summons upon a defendant. If the incumbrancer be dissatisfied with the rate of interest so fixed, he may, within three months from the date of service upon him of such order, institute a suit against the ward in a district court within whose jurisdiction the property mortgaged or any portion thereof is situate, and the said court shall, if the mortgage debt has been notified or admitted as aforesaid, pass a declaratory decree fixing such rate of interest as to it may seem reasonable. If no such suit be instituted within the said period, the incumbrancer shall be deemed to have agreed to the rate fixed by the Collector. Central Act XIV of 1882.

(5) If an incumbrancer is dispossessed under this section, the money due to him under the instrument of mortgage at the date of such dispossession together with subsequent interest on the unliquidated principal of the mortgage debt at the rate stipulated in the said instrument, and in the absence of such stipulation at the rate determined as hereinbefore provided, shall, subject to the provisions of section 41, and subject to the charges specified in classes I and II in section 32, excepting the liquidation of debts payable by the ward, and the provisions with reference to the upkeep of the furniture, equipage, live-stock and other movable property belonging to the ward, be recoverable together, with any money which he may be legally entitled to add to the principal money, on the security of the property mortgaged and of the rents and profits arising or accruing therefrom subsequent to the date of such dispossession, in the same manner as if he were a simple mortgagee under the said instrument of such property and of such rents and profits.

(6) The Collector shall, as soon as conveniently may be, after the expiration of the revenue year commencing with the date of such dispossession and of every successive revenue year declare, subject to the approval of the Court, the gross annual rents and profits realized from such property, the several heads of expenditure and the balance and such declaration shall be conclusive evidence of the statements therein contained. A copy of such declaration shall be furnished to the dispossessed incumbrancer free of charge.

Provision regarding leases for insufficient consideration.

44. (1) When any property of a ward is in the possession of any person claiming to hold under a lease granted by the ward and dated within the three years immediately preceding the commencement of the superintendence or of any person claiming under such lessee, the Collector may inquire into

[1] *See* now the Code of Civil Procedure, 1908 (Central Act V of 1908).

the sufficiency of the consideration for which the lease was granted ; and if such consideration appears to him inadequate, he may, with the previous sanction of the Court, give notice in writing that the lease shall determine at the end of the then current revenue year unless the lessee or any one claiming under him pays or agrees to pay such additional consideration as may be mentioned in such notice within a date therein fixed. If within such date such person does not pay or enter into an agreement to pay the additional consideration demanded, or such other consideration as the Collector may be willing to accept, the lease shall determine at the end of the then current revenue year :

Provided that such person may, if dissatisfied with the said notice of the Collector, institute a suit against the ward within three months from the date of service of such notice in a district court within whose jurisdiction the property comprised in the lease or any portion thereof is situate for determining whether the consideration for the lease was adequate, and if not, whether the additional consideration demanded by the Collector or what other amount is reasonable.

(2) If the said district court be satisfied that the lease was granted for adequate consideration and it is not shown to be otherwise invalid, it shall pass a decree establishing the validity of the lease.

(3) If the district court holds the consideration for the lease to be inadequate, it shall determine the amount of additional consideration to be paid by the lessee.

(4) If no such suit be instituted or if on the institution of such suit the lessee does not within one month from the date of the decree therein pay or enter into an agreement to pay the additional consideration, determined by the district court, the Collector may without resorting to a civil court enter upon the property and summarily evict therefrom such person and any other person obstructing or resisting on his behalf.

Execution of decrees to be transferred to Collector in certain cases.

45. (1) In the case of any specified ward of the Court, the [1][State Government] may [2] [* * * * * * *] declare by notification in the Official Gazette that execution of decrees passed by civil courts, which are capable of execution by sale of any immovable property of such ward, or which in pursuance of a contract specifically affecting any such immovable property order the sale of the same, whether such decrees be passed prior to such notification or subsequent thereto, shall be

[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] The words " with the previous sanction of the Governor-General in Council " were omitted by the Devolution Act, 1920 (Central Act XXXVIII of 1920) First Schedule—Part iii.

transferred to the Collector of the district in which such property or any portion thereof is situate and rescind such notification :

Provided that when a portion only of a decree passed by a civil court is of the description aforesaid, such portion alone shall be transmitted to the Collector for execution.

(2) The [1] [State Government] may also notwithstanding anything contained in the Code of Civil Procedure[2] prescribe rules for the transmission of the decree from the civil court to the Collector, and for regulating the procedure of the Collector in executing the same, and for retransmitting the decree from the Collector to the civil court. Central Act XIV of 1882.

(3) Rules under this section may confer upon the Collector or any gazetted subordinate of the Collector all or any of the powers which a civil court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector, including the powers of the civil court under sections 294 and 312 of the Code of Civil Procedure[2] and may provide for orders passed by the Collector or any gazetted subordinate of the Collector or orders passed on appeal with respect to such orders, being subject to appeal to and revision by superior revenue authorities as nearly as may be as the orders passed by the civil court, or orders passed on appeal with respect to such orders, would be subject to appeal to and revision by appellate or revisional civil courts under the Code of Civil Procedure [2] or other law for the time being in force if the decree had not been transferred to the Collector. Central Act XIV of 1882. Central Act XIV of 1882.

(4) A power conferred by the rules upon the Collector, or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exercisable by the civil court which passed the transferred decree or by any civil court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the aforesaid civil court.

(5) In executing a decree transferred to the Collector under this section the Collector shall be deemed to be acting judicially within the meaning of the Judicial Officer's Protection Act, 1850. Central Act XVIII of 1850.

Collector to whom execution of decree has been transferred to cease to discharge the functions of a Collector under the Act.

46. (1) When the Collector, to whom the execution of any decree has been transferred under section 45, is also the Collector who has to discharge the other functions of a Collector under this Act in respect of the ward against whom such decree has to be executed, the [1] [State Government] shall appoint some other person by name or in virtue of his office to exercise the functions of a Collector under this Act in respect

[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] *See* now Central Act V of 1908.

of such ward other than the execution of the decrees transferred to him.

(2) The Board of Revenue may authorize the person so appointed to exercise all or any of the powers conferred on a revenue-officer in charge of a division by sub-section (2) of section 16 of the Madras Proprietary Estates Village Service Act, 1894.

Madras Act II of 1894.

Certain provisions of Civil Procedure Code to be applicable to execution of decrees transferred to Collector.

47. The provisions of sections 321, 322, 322 A, 322 B, 322 C, 322 D, 323, 324, 324 A, 325, 325 A, 325 C of the Code of Civil Procedure,[1] shall subject to the provisions of this Act and to such rules as may be prescribed by the [2] [State Government] under section 45, be applicable as far as may be to the execution of decrees transferred under section 45.

Central Act XIV of 1882.

CHAPTER VI.

SUITS.

Exercise of discretion not to be questioned in civil court.

48. No declaration made by the [2] [State Government] under section 15 or 18 and no act done in the exercise of any discretionary power conferred by this Act shall be questioned in any civil court.

Suit not to be instituted until after notice to Collector.

49. (1) No suit relating to the person or property of any ward shall be instituted in any civil court until the expiration of two months after notice in writing has been delivered to or left at the office of the District Collector specified in the notification under section 19 or the Collector appointed under section 46, as the case may be.

(2) Such notice shall state the name and place of abode of the intending plaintiff, the cause of action and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left:

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of the notification under section 19.

Suit or proceeding by or against ward.

[3] [**50.** In all suits or proceedings in any civil or revenue court the ward shall sue and be sued in his own name and the manager of his property appointed under section 24 or, if there is no such manager, the officer competent to act as manager under section 25 shall represent him, as next friend or guardian *ad litem* as the case may be.]

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[1] *See* now Central Act V of 1908.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] Substituted for the original s. 50 by Mad. Act I of 1911, s. 2.

(Chapter VI.—Suits. Chapter VII.—Release of Persons and Property from Superintendence.)

Costs against Collector or manager how paid.

51. If in any such suit or proceedings any civil or revenue court shall decree any costs against the * * * [1] manager [2][or other officer competent to act as manager under section 25] the Court of Wards shall cause such costs to be paid out of any property of the ward, which, for the time being, may be in its hands.

Suits must be authorized by Court.

52. No suit shall be brought on behalf of any ward by the * * * [1] manager [2][or other officer competent to act as manager under section 25] unless authorized by some particular or general order of the Court:

Provided that a manager [3][or other officer as aforesaid] [4]. . . . . may file a plaint in order to prevent a suit from being barred by the law of limitation, but such suit shall not be further proceeded with, until the consent of the Court has been obtained.

Adjudication of civil disputes between two or more wards.

53. (1) When any question arises as between two or more wards of such a nature that an adjudication upon it by a civil court is expedient, it shall be lawful for the Court of Wards, acting through the Collector of the district in which a case might have been stated for the opinion of the civil court with regard to such matter under section 527 of the Code of Civil Procedure, [5] to file in the civil court having jurisdiction, a statement containing the point or points for determination. Central Act XIV of 1882.

(2) When such statement has been filed, the civil court shall appoint a guardian *ad litem* for each ward having a separate interest, and such guardians shall thereupon conduct the case subject to the general control of the Court of Wards.

(3) The civil court may, if it thinks fit, amend the case so stated, and shall then proceed to hear and dispose of the case in the manner provided in Chapter XXXVIII of the Code of Civil Procedure [5] for the hearing and disposal of cases stated for opinion under that Chapter. Central Act XIV of 1882.

CHAPTER VII.

RELEASE OF PERSONS AND PROPERTY FROM SUPERINTENDENCE.

Release from superintendence.

54. The Court may, with the previous sanction of the [6][State Government] in all cases where superintendence has been assumed in pursuance of orders under section 15, at

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[1] The words " Collector or " were omitted by Mad. Act I of 1911, s. 3.

[2] Inserted by *ibid.*

[3] Inserted by *ibid*, s. 4.

[4] The words " in the name of the Collector or in his own name as the case may be " were repealed by *ibid.*

[5] *See* now Central Act V of 1908.

[6] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

(Chapter VII.—Release of Persons and Property from Superintendence.)

any time release from its superintendence the person or property of a ward or both and shall save as provided in section 57 release from superintendence—

(*a*) the person and property of a ward disqualified under clause (*a*) of section 9 as soon as he ceases to be a minor ;

(*b*) the person and property of a ward disqualified under clause (*c*) of section 9 as soon as it is found by a competent civil court that the disability has ceased ;

(*c*) the person and property of a proprietor declared to be disqualified under clause (*b*) or (*d*) of section 9 as soon as the [1][State Government] revokes its declaration that such proprietor is disqualified ;

(*d*) the property of an undivided Hindu family, and the person of every co-parcener therein who is not possessed of separate estate, as soon as any co-parcener ceases to be disqualified under section 9.

Release of estates taken under management under section 18 when debts cannot be liquidated within reasonable time.

55. (1) The Court may, with the previous sanction of the [1][State Government], at any time within two years from the date of the notification published under section 19, release from its superintendence, on a day to be notified, the property of a person who has been made a ward of the Court in pursuance of an order under section 18 without liquidating any of his debts and liabilities or after liquidating some of the debts and liabilities, when the Court is satisfied that it is impracticable to liquidate within a reasonable time all the debts and liabilities or such of them as have not been liquidated and in either case the legal incapacity of such ward shall cease on the date so notified.

(2) Whenever an incumbrancer is dispossessed under section 43, and his debt remains unliquidated at the time the Court releases from its superintendence the property of such ward under sub-section (1), the Collector shall replace the incumbrancer in possession.

(3) Whenever the property of a person is released under sub-section (1) from the superintendence of the Court, the provisions of sections 41 and 42 shall not apply to any of the debts and liabilities of the ward remaining unliquidated at the time when his properties is so released.

(4) In computing the period of limitation applicable to a suit brought or application made against such person or his legal representative after the Court has released his property under sub-section (1) the time during which the superintendence of the Court continued shall be excluded.

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

(Chapter VII.—Release of Persons and Property from Superintendence.)

When estate taken under management under section 18 may be made over to proprietor.

56. The Court may, with the previous sanction of the [1] [State Government], replace any proprietor made a ward of the Court in pursuance of an order under section 18, in the management of his estate on a day to be notified if the debts and liabilities binding on his estate have been discharged, and the Court is satisfied that he will thereafter be competent to take charge of his estate and administer his own affairs and his legal incapacity shall cease on such date.

Option to retain superintendence in certain cases.

57. When a ward dies or ceases to be disqualified before the debts and liabilities binding on his estate have been discharged, the Court may, with the previous sanction of the [1] [State Government], retain the property under its superintendence until the debts and liabilities are discharged or for any shorter period, and when for the purpose of discharging such debts and liabilities the Court has raised money on condition that it should retain the superintendence of the property until the money so raised is repaid, the Court shall not without the consent of the lender or his representatives withdraw from superintendence until the money so raised has been repaid :

Provided that, after the death of the ward, the Court shall not retain charge on account of any debt or liability which has been declared by a civil court not to be binding on the representatives of the deceased ward.

Disabilities of proprietor in such cases.

58. If the Court retains the superintendence under the provisions of the last preceding section, the person who has succeeded to the property, or the person who has ceased to be disqualified shall in so far as the property in question is concerned be deemed to be a ward of the Court for the purposes of clauses (*a*) and (*b*) of [2] [sub-section (1) and sub-section (2) of section 34].

Appointment of guardian before release.

59. (1) When the Court decides to release from its superintendence the person and property of a minor it may, before such release, by an order in writing, appoint any person to be the guardian of the person or property or both of such minor.

(2) Such appointment shall take effect from the date of such release.

(3) In appointing a guardian under this section, the Court shall be guided by the provisions of section 17 of the Guardians and Wards Act, 1890. Central Act VIII of 1890.

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] The portion within square brackets was substituted for the word and figures " section 34 " by section 3 of the Madras Court of Wards (Amendment) Act, 1933 (Madras Act XVII of 1933).

(Chapter VII.—Release of Persons and Property from Superintendence. Chapter VIII.—Miscellaneous.)

Central Act VIII of 1890.

(4) Every such guardian shall have and be subject to the same rights, duties and liabilities as if he had been appointed under the Guardians and Wards Act, 1890.

Recovery of expenses after release.

60. Any expense incurred by the Court on account of any property under its charge, and not defrayed from such property during the Court's superintendence may, after the release of such property, be recovered as if it were an arrear of land-revenue from any person into whose possession such property or any part thereof may have passed :

Provided that the sum so recovered from any such person shall not be greater than the value of any such property, which so passed into the possession of such person.

Procedure when succession to ward's property is disputed.

61. Whenever, on the death of any ward, the succession to his property or any part thereof is disputed, the Court may either direct that such property, or part thereof, be made over to any person claiming the property, or may retain the superintendence of the property until a claimant has established his title to the same in a competent civil court, or institute a suit of inter-pleader against all the claimants.

Notification of release from superintendence.

62. Whenever the Court releases any person or property from its superintendence, the fact of such release shall be notified in the [1][Official Gazette] and also in the Gazette of the district in which such property or any part thereof is situate.

CHAPTER VIII.

MISCELLANEOUS.

Powers of Court in regard to religious endowments of which ward is hereditary trustee or manager.

63. If a ward is the hereditary trustee or manager of a temple, mosque or other religious establishment or endowment, the Court, notwithstanding anything contained in section 22 of the Religious Endowments Act, 1863, may make such arrangements as it thinks fit for the discharge, during the wardship of the ward's duties as trustee or manager, provided that for the direct and personal management of the religious affairs of any such institution, establishment or endowment the Court shall appoint suitable persons other than [2][servants of the Government] and that the Court shall as far as possible restrict its superintendence to the preservation of the property belonging to the institution, establishment or endowment.

Central Act XX of 1863.

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[1] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[2] The words "servants of the Crown" were substituted for the words "officers of Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

Powers of persons holding inquiries.

64. In holding any inquiry under this Act the Collector or other person authorized to hold such inquiry shall have all the powers conferred on revenue officers by the Madras Revenue Summonses Act, 1869. Madras Act III of 1869.

Property under charge of Court not liable to sale for arrears.

65. No immoveable property under the superintendence of the Court shall be liable to sale on account of arrears of land-revenue, accruing while such estate is under the superintendence of the Court :

Provided that all such arrears of revenue shall be the first charge upon the sale proceeds of any such property which may be sold for any other cause than for arrears of revenue.

Power to make rules.

66. The Court may, with the previous sanction of the [1][State Government], make rules consistent with this Act—

(*a*) regulating the management of property under the superintendence of the Court ; and

(*b*) generally for the guidance of all persons in all proceedings under this Act and for carrying out the provisions of this Act.

Application of Act to estates of Rulers of Indian States.

[2][**66-A.** The powers and functions conferred on the State Government by or under this Act shall, in relation to the estates of Rulers of Indian States, be powers and functions of the Central Government.]

CHAPTER IX.

PENALTIES.

Abetting unsanctioned marriage of wards, etc.

67. Whoever, without the previous consent of the Court, abets the marriage of any of the persons specified in clauses (*a*), (*b*) and (*c*) of section 23 shall be liable, on conviction before a Court of Session, to a fine not exceeding Rs. 2,000 or to imprisonment for a term not exceeding six months or to both.

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] This section was inserted by the Adaptation (Amendment) Order of 1950.

MADRAS ACT No. II OF 1904.[1]

[THE MADRAS IMPARTIBLE ESTATES ACT, 1904.]

[*8th March* 1904.]

An Act to declare that certain [2] estates are impartible and that the proprietors of such estates cannot exercise unrestricted powers of alienation in respect thereof.

WHEREAS it is expedient to amend the law in regard to the impartibility and inalienability of certain estates ; It is hereby enacted as follows :— Preamble.

1. (1) This Act may be called the Madras Impartible Estates Act, 1904. Short title.

(2) It extends to the whole of the Presidency of Madras except the districts of Malabar and South Kanara. Extent.

Madras Act II of 1902. Madras Act II of 1903.

(3) On this Act coming into force, the Madras Impartible Estates Act, 1902, and the Madras Impartible Estates Act Continuance Act, 1903, shall be repealed. Repeal.

2. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(1) " Alienation " includes a temporary transfer such as a mortgage or a lease. " Alienation."

(2) " Impartible estate " means an estate descendible to a single heir and subject to the other incidents of impartible estates in Southern India. " Impartible estate."

(3) " Proprietor of an impartible estate " means the person entitled to possession thereof as single heir under the special custom of the family or locality in which the estate is situated or if there be no such family or local custom under the general custom regulating the succession to impartible estates in Southern India. " Proprietor of an impartible estate."

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1903, Part IV, p. 343 ; for Report of the Select Committee, *see ibid*, Part IV, p. 383 ; and for Proceedings in Council, *see ibid*, 1903, Part IV, p. 364 ; and *ibid*, 1904, Part IV, p. 49.

This Act will cease to be in force in estates notified under the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948), by virtue of section 66 of that Act.

[2] See also :—
Madras Act II of 1918.
Madras Act VII of 1926.
Madras Act V of 1928.
Madras Act VIII of 1929.
Madras Act IX of 1929.
Madras Act IX of 1930.
Madras Act I of 1933.
Madras Act II of 1933.
Madras Act IX of 1933.

[1] [For the purposes of clause(*c*) of sub-section(2) of section 4 and of sub-section (3) of that section, " estate " means—

(1) any permanently settled estate, whether a Zamindari, Jaghir, Mitta or Palaiyam ;

(2) any portion of such permanently settled estate which has been separately registered in the office of the Collector ;

(3) any unsettled Palaiyam or Jaghir ;

(4) any inam village of which the grant was made or confirmed by the [2][ ] Government ; or

(5) any portion consisting of one or more villages, of any of the estates specified above in clauses (1), (2) and (3), which is held on a permanent under-tenure.]

Estates deemed impartible.

3. The estates included in the schedule shall be deemed to be impartible estates.

Restriction on alienations of impartible estates.

4. (1) The proprietor of an impartible estate shall be incapable of alienating or binding by his debts, such estate or any part thereof beyond his own lifetime unless the alienation shall be made, or the debt incurred, under circumstances which would entitle the managing member of a joint Hindu family, not being the father or grandfather of the other co-parceners, to make an alienation of the joint property, or incur a debt, binding on the shares of the other co-parceners independently of their consent.

Permissible alienations.

(2) In particular and without prejudice to the generality of the foregoing provisions, the proprietor of an impartible estate is hereby expressly authorized—

(*a*) to grant sites for public charitable and public religious institutions ; [3]

(*b*) to grant mining or quarrying leases for terms not exceeding sixty years and leases of the pannai or home farm lands for terms not exceeding fifteen years, provided that every such lease—

(i) shall be by registered deed and shall be made to take effect in possession not later than twelve months after its date ;

(ii) shall reserve the best rent that can reasonably be obtained, regard being had to any money laid out or to be laid out by the lessee for the benefit of the estate, but not to any fine or premium paid or to be paid in consideration of granting such lease ;

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[1] The paragraph within square brackets was added by section 2 of the Madras Impartible Estates (Amendment) Act, 1934 (Madras Act III of 1934).

[2] The word " British " was omitted by the Adaptation (Amendment) Order of 1950.

[3] In the application of the Act to the Agency tracts the following has been added at the end of this clause :—

' or for any purpose which in the opinion of the Local Government is either directly or indirectly beneficial or is likely to be directly or indirectly beneficial to the estate.' *See* Notification No. 334, published at pages 1861-1862 of Part I of the *Fort St. George Gazette*, dated 4th December 1928.

(iii) shall contain a covenant by the lessee for payment of rent and a condition of re-entry on the rent not being paid within a time therein specified not exceeding three months ;

(iv) if a mining or quarrying lease, may make the rent ascertainable by or to vary according to the acreage worked, or by or according to the quantities of any mineral or substance gotten, made merchantable, converted, carried away, or disposed of in or from such estate, or any other land, or by or according to any facilities given in that behalf, and may reserve a fixed or minimum rent with or without power for the lessee, in case the rent according to acreage or quantity in any specified period does not produce an amount equal to the fixed or minimum rent, to make up the deficiency in any subsequent specified period, free of rent other than the fixed or minimum rent ;

[1] [(*c*) (i) to exchange the impartible estate or any part or parts thereof for an estate or estates or part or parts of an estate or estates ; and

(ii) to sell the impartible estate or any part or parts thereof and acquire with the proceeds of such sale an estate or estates or part or parts of an estate or estates :

Provided that the Collector of the district in which the impartible estate which is to be exchanged or sold or the part or parts thereof which is or are to be exchanged or sold is or are situated, has granted a certificate, or where the impartible estate or part or parts thereof affected is or are situated in more than one district, the Collectors of all the districts concerned have granted a certificate, to the effect that the transaction of exchange or of sale and acquisition, as the case may be, is advantageous to and for the benefit of the impartible estate or, where the Collector or any of the Collectors concerned have refused to grant such a certificate, the Board of Revenue, on appeal made to it within a time to be prescribed by rules under sub-section (4), has granted a certificate to the effect that the transaction is advantageous to and for the benefit of the impartible estate.]

[2] [(3) The estate or estates or part or parts of an estate or estates obtained in exchange for or acquired with the proceeds of the sale of an impartible estate or any part or parts thereof under clause (*c*) of sub-section (2) shall, for all the purposes of this Act, be deemed to be an impartible estate or to form part or parts of the impartible estate, as the case may be.]

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[1] This clause was added by section 3 of the Madras Impartible Estates (Amendment) Act, 1934 (Madras Act III of 1934).

[2] Sub-sections (3) and (4) were inserted by *ibid.*

[1][(4) The [2][State Government] may make rules for regulating the grant of certificates under the proviso to clause (*c*) of sub-section (2) and generally for carrying out the purposes of the said clause.]

Exception.

[3][(5) Nothing in this section shall be construed to restrict the power of the owner of an impartible estate to provide for the succession thereto in default of heirs.

Procedure in regard to grant of certain leases.

5. When the proprietor of an impartible estate proposes to grant any such lease as specified in section 4, sub-section (2), clause (*b*), it shall be lawful of such proprietor or the intending lessee to submit a draft of the proposed lease to the Board of Revenue for approval, and the Board, if satisfied after making such inquiry and giving such notices as it thinks fit, that the terms of such draft lease are in accordance with the provisions of this Act, may approve thereof and affix its seal thereto in token of approval; and if the proprietor shall thereafter execute the lease in the terms of the draft lease so approved and sealed, such lease shall be deemed to have been duly granted in accordance with the provisions of this Act.

Conditions of alienations of impartible estates for payment of land revenue due to Government.

6. Notwithstanding anything herein before contained, the proprietor of an impartible estate shall be incapable of alienating, or binding by his debts such estate or any part thereof beyond his own lifetime for the payment of land-revenue due to Government, unless he shall have first obtained the consent in writing of the Collector of the district in which the estate is situated. Such consent shall not be refused unless in the opinion of the Collector the case is one in which the land-revenue due to Government may be realized by management of the estate under the provisions of the Madras Revenue Recovery Act, 1864. Madras Act II of 1864.

Saving clause.

7. This Act shall not affect alienations made or debts incurred before the coming into force of this Act, and shall cease to apply to estates or parts of estates which may hereafter be lawfully alienated otherwise than by temporary transfer.

Computation of period of limitation.

8. (1) In computing the period of limitation applicable to suits and legal proceedings other than suits stayed and to appeals barred by the Madras Impartible Estates Act, 1902, the period during which such suits, proceedings or appeals were stayed or barred by the said Act shall be excluded, and all such suits, proceedings and appeals shall be deemed to have been actively prosecuted during such period within the meaning of section 52 of the Transfer of Property Act, 1882. Madras Act II of 1902. Central Act IV of 1882.

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[1] Sub-sections (3) and (4) were inserted by the Madras Impartible Estates (Amendment) Act, 1934 (Madras Act III of 1934), s. 3 (2).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adapation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] The original sub-section (3) was renumbered as (5) by the Madras Impartible Estates (Amendment) Act, 1934 (Madras Act III of 1934), s. 3 (2).

Madras Act II of 1903.

(2) If in any suit, proceeding or appeal permitted to proceed by the Madras Impartible Estates Act Continuance Act, 1903, it be finally decided that any estate named in the Schedule attached to this Act is partible, such estate shall be deemed not to have been mentioned in the Schedule. Exclusion of estates declared partible.

[1] [9. Where for the purpose of ascertaining the succession to an impartible estate, the estate has to be regarded as the property of a joint Hindu family, the following persons shall have a right of maintenance out of the impartible estate and its income, namely :— Persons entitled to maintenance out of the impartibe estate.

(*a*) the son, grandson, or [2] great-grandson, in the male line, born in lawful wedlock or adopted, of the proprietor of the impartible estate or of any previous proprietor thereof:

Provided that where maintenance is payable to a son or grandson, by or under any decree or order of court, award, contract, family arrangement or other instrument in writing, and such instrument, expressly or by necessary implication, makes it clear that the maintenance is payable to such son or grandson as representing his branch of the family, which shall not be open to a son or grandson of such son, or to a son of such grandson, as the case may be, during the period for which such maintenance is payable, to claim maintenance either in his individual right or as representing his branch of the family ;

(*b*) the widow of any previous proprietor of the impartible estate so long as she does not remarry ;

(*c*) the widow of the son, grandson or great-grandson of the proprietor of the impartible estate or of any previous proprietor thereof, so long as she does not remarry, provided she has no son or grandson living ;

(*d*) the unmarried daughter born in lawful wedlock of the proprietor of the impartible estate or any previous proprietor thereof ; and

(*e*) the unmarried daughter, born in lawful wedlock, of a son or grandson of the proprietor of the impartible estate or of any previous proprietor thereof, provided she has neither father nor mother nor a brother living.

Explanation.—Maintenance shall, where necessary, include a provision for residence and in the case of an unmarried daughter of the proprietor or any previous proprietor, a provision for the expenses of her marriage in accordance with the scale customary in the family.]

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[1] Sections 9 to 15 were added by section 2 of the Madras Impartible Estates (Second Amendment) Act, 1934 (Madras Act XII of 1934).

[2] *See* section 25 (1) of the Indian Succession Act, 1925 (Central Act XXXIX of 1925).

Amount of maintenance.

[1] [**10.** (1) In determining the amount of maintenance payable to any of the persons mentioned in section 9, the court shall *inter alia* have regard to the following considerations, namely :—

(i) the net income of the estate ;

(ii) the number of persons to be maintained out of the estate ;

(iii) the nearness of relationship of the person claiming to be maintained ;

(iv) the other sources of income of the claimant ; and

(v) the circumstances of the family of the claimant.

(2) The court shall so fix the amount of such maintenance that the total amount payable out of the estate by way of maintenance to the relations mentioned in section 9 shall not exceed one-fifth of the net income.

Family arrangements in satisfaction of claim to maintenance.

11. Notwithstanding anything contained in this Act, the proprietor of an impartible estate shall have power to enter into a *bona fide* family arrangement whereby in full satisfaction of the claim for maintenance of a particular branch, any property other than the impartible estate is allotted to that branch, and where such an arrangement has been entered into, no member of such a branch shall have any right after such arrangement to claim any maintenance from the estate.

Right to maintenance under law or custom not to be affected.

12. Nothing contained in this Act shall affect the right to maintenance out of an impartible estate and the income thereof, of any other relations of the proprietor or any previous proprietor under any law or custom for the time being in force.

Power to declare maintenance to be a charge.

13. The award of maintenance under section 9 may be declared a charge upon any portion of an impartible estate or the income thereof.

Power of court to vary maintenance.

14. (1) Any decree for maintenance passed under this Act may be varied by the court, if any of the facts and circumstances referred to in section 10 have undergone a material change.

(2) Where the rate of maintenance periodically payable to any person mentioned in section 9 out of an impartible estate has been fixed by a decree or order of court, family arrangement, award, contract or other instrument in writing, whether before or after the commencement of the Madras Impartible Estates (Second Amendment) Act, 1934, it shall be lawful for the court to reduce such rate of maintenance in order to provide maintenance for new claimants and to adjust it within the limits specified in sub-section (2) of section 10.] Madras Act XII of 1934.

[1] Sections 9 to 15 were added by section 2 of the Madras Impartible Estates (Second Amendment) Act, 1934 (Madras Act XII of 1934).

Madras Act XII of 1934.

[1] [**15.** Save as provided in section 14, nothing contained in sections 9 to 14, shall affect any contract, arrangement, award or decree of court entered into or made before the date of the commencement of the Madras Impartible Estates (Second Amendment) Act, 1934 : Sections 9 to 14 not to affect prior contracts, etc.

Provided that no decree made prior to the passing of the Madras Impartible Estates (Second Amendment) Act, 1934, negativing the right of any person to maintenance claimed in his own right or as representing his branch shall debar his descendants declared entitled to maintenance under section 9 from claiming such maintenance.]

SCHEDULE.

North Arcot.

1. Kalahasti.
2. Karvetnagar.
3. Punganuru.
4. Kangundi.
5. Bangari Palaiyam.
6. Naraganti Palaiyam.
7. Vallivedu and Kamavaram Divisions of Pulicherla Palaiyam.
8. Gudipati Palaiyam.
9. Tunba Palaiyam.
10. Kalluru Palaiyam.

[2] [11. Arni Jagir.]

South Arcot.

1. Vettavalam.
2. Kurumba Gounden Jagir.
3. Jadaya Gounden Jagir.
4. Ariya Gounden Jagir.

Chingleput.

1. Kalahasti.

Coimbatore.

1. Uttukuli.
2. Samattur.
3. Kottampatti.
4. Poravipalaiyam.
5. Ramapatnam.
6. Metratti.
7. Tungavi.

Coimbatore—cont.

8. Jottampatti.
9. Vedapatti.

Ganjam.

1. Parlakimedi.
2. Dharakota.
3. Kallikota.
4. Pedda Kimedi.
5. Chikati.
6. Mandasa.
7. Chinna Kimedi.
8. Serugada.
9. Humma.
10. Bodogada.
11. Surangi.
12. Jarada.
13. Budarasingi.
14. Tarla.
15. Biridi.
16. Paluru.

Godavari.

1. Pithapuram.
2. Nidadavolu, Baharzhalli and Ambarapeta.
3. Vegayammapeta.
4. Tangellamudi.
5. Bhadrachalam.
6. Kotipalli in the Vizianagram zamindari.
7. Telikicherla.
8. Vilasa.
9. Janupalle.
10. Jalimudi.

[1] Sections 9 to 15 were added by section 2 of the Madras Impartible Estates (Second Amendment) Act, 1934 (Madras Act XII of 1934).

[2] Included by Madras Act VI of 1909.

Kistna.

1. Devarakota.
2. Munagala Paragana.
3. Chintalapati Vantu.

Madura.

1. Ramnad.
2. Sivaganga.
3. Rettayambadi.
4. Peraiyur.
5. Saptur.
6. Bodinayakkanur.
7. Gandamanayakkanur.
8. Ayakkudi.
9. Idaiyangottai.
10. Ammayanayakkanur.
11. Puliyankulam.
12. Jyotilanayakkanur.
13. Uttappanayakkanur.
14. Doddappanayakkanur.
15. Nadukkottai.
16. Melakkottai.
17. Sandaiyur.
18. Tevaram.
19. Erasakkanayakkanur.
20. Mambarai.

Nellore.

1. Venkatagiri.
2. Chundi.
3. Mutyalapadu.
4. Kalahasti.

Salem.

1. Shulagiri Palaiyappattu.
2. Ankusagiri Palaiyappattu.
3. Periya Kalrayan Nad.
4. Chinna Kalrayan Nad.
5. Ariya Gounden Jagir.

Tanjore.

1. Gandarvakottai.
2. Kallakottai.
3. Konur.
4. Sillattur.
5. Palayavanam.

Tanjore—cont.

6. Pappanadu.
7. Singavanam.
8. Madukkur.
9. Neduvasal.
10. Sendangudi.
11. Attivetti.

Tinnevelly.

1. Ettiyapuram.
2. Sivagiri.
3. Settur.
4. Urkkadu.
5. Singampatti.
6. Uttumalai.
7. Maniyachi.
8. Kadambur.
9. Attankarai.
10. Naduvakurichchi Minor Division.
11. Talaivankottai.
12. Alagapuri.
13. Mannarkottai.
14. Sennalkudi and Kadambankulam.
15. Kollapatti.
16. Kollankondan.
17. Avudaiyapuram.

Trichinopoly.

1. Marungapuri.
2. Kadavur.
3. Turaiyur.
4. Udaiyarpalaiyam.

Vizagapatam.

1. Vizianagram.
2. Bobbili.
3. Saluru.
4. Madugula.
5. Jeypore.
6. Kurupam.
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MADRAS ACT No. II OF 1905.[1]

[THE MADRAS PORT TRUST ACT, 1905.]

[19*th April* 1905 ; 17*th May* 1905.]

An Act to amend and consolidate the law relating to the Port of Madras.

Preamble.

WHEREAS it is expedient to amend and consolidate the law relating to the regulation, conservancy and improvement of the Port of Madras ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called the Madras Port Trust Act, 1905.

2, 3 & 4. [*Repealed by section* 3 *of the Madras Act IV of* 1923.]

Interpretation clause.

5. In this Act, unless there be something repugnant in the subject or context,—

"Board."

(1) "Board" means the Trustees of the Port of Madras appointed under this Act ;

"Chief Officer of Customs."

(2) "Chief Officer of Customs" denotes the chief executive officer of [2][* *] Customs for the Port of Madras for the time being ;

"Dock."

(3) "Dock" includes basins, locks, cuts, entrances, graving docks, graving blocks, inclined planes, [3][slipways], grid-irons, quays, warehouses, and other works and things appertaining to any dock, and also denotes the portion of the sea enclosed [4][or protected] by the arms or groynes of the harbour ;

"Goods."

(4) "Goods" means and includes every kind of movable property ;

[5][* *]

"Land."

[5](5) "Land" includes the bed of the sea below high watermark ;

"Master."

[5](6) "Master" when used in relation to any vessel [6][or any aircraft making use of the port] means any person having for the time being the charge or control of such vessel [7][or such aircraft, as the case may be] except a pilot or harbour-master [8][of the port] ;

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1 For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1904, Extraordinary, p. 569 ; for Report of the Select Committee, *see ibid*, 1905, Part IV, page 5 and for Proceedings in Council, *see ibid*, 1904, Part IV, p. 590 and *ibid*, 1905, Part IV, pp. 72 and 200.

2 The word "Sea" before the words "Customs of the Port of Madras" was omitted by section 3 of Madras Act II of 1915.

3 The word "stepways" was substituted for the words "patent slips" by *ibid*.

4 These words were inserted by *ibid*.

5 The definition of "Harbour" which was clause (5) was omitted and original clauses (6) to (13) were renumbered as (5) to (12) by *ibid*.

6 These words were inserted by section 128 (*a*) (i) of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

7 These words were inserted by section 128 (*a*) (ii), *ibid*.

8 These words were added by section 128 (*a*) (iii), *ibid*.

[1] (7) " Owner ", when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale, custody, loading or unloading of such goods ; and when used in relation to any vessel [2] [or any aircraft making use of the port], includes any part owner, charterer, consignee, or mortgagee in possession thereof ;

" Owner."

[1] (8) " Pier " includes any stage, stairs, landing-place, hard jetty, landing-stage, floating-barge, or pontoon, and any bridges or other works connected therewith ;

" Pier."

[1] (9) " Port " means the Port of Madras within such limits as may from time to time be defined by the [3] [Central Government] for the purpose of this Act by notification in the [4] [Official Gazette] and until a notification is so issued, within such limits as may have been defined by the Government under the provisions of the Madras Harbour Trust Act, 1885 ;

" Port."

[5] [(10) " Port Trust security " means debentures, bonds or stock certificates issued by the Board in respect of any loan contracted under the provisions of this Act ;]

" Port Trust security."

[5] [(11) " Prescribed " means prescribed by rules or by-laws made under this Act ;]

" Prescribed."

" Public securities."

[6] [(11-A.) " Public securities " mean—

(*a*) promissory notes, debentures, stock or other securities of the Central Government or of any State Government,

(*b*) debentures or other securities for money issued by or on behalf of any municipal body, Improvement Trust or Port Trust under the authority of any law for the time being in force in India, and includes the Port Trust securities ;]

[5] [(12) " Rate " includes any toll, due, rent, rate or charge leviable under this Act ;

" Rate."

[5] [(13) " Vessel " denotes any thing made for the conveyance [7] [mainly] by water of human beings or of property ;

" Vessel."

[5] [(14)] " Wharf " includes [8] [any wall or stage and] any part of the foreshore that may be used for loading or unloading goods, and any wall enclosing or adjoining the same.

" Wharf."

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1 The definition of " Harbour " which was clause (5) was omitted and original clauses (6) to (13) were renumbered as (5) to (12) by section 3 of Madras Act II of 1915.

2 These words were inserted by section 128 (*b*), *ibid.*

3 These words were substituted for the words " Local Government " by the Adaptation Order of 1937.

4 These words were substituted for the words " *Fort St. George Gazette* " by *ibid.*

5 Clauses (10) and (11) were added and original clauses (10) to (12) were renumbered as (12) to (14) by section 4 of the Madras Port Trust (Amendment) Act, 1922 (Madras Act IV of 1923).

6 Clause(11-A) was inserted by section 128 (*c*) of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

7 This word was inserted by section 128 (*d*), *ibid.*

8 These words were inserted by section 3 of the Madras Port Trust (Amendment) Act, 1915 (Madras Act II of 1915).

Requirements as to publication of notifications, orders, etc., in the Official Gazette.

[1][**5-A.** (1) Any requirement in this Act that a notification, order, rule or by-law issued or made by the Board or by the Central Government shall be published in the Official Gazette, shall, unless otherwise expressly provided in this Act, be construed as a requirement that the notification, order, rule or by-law shall—

(*a*) where it is issued or made by the Board, be published in the Official Gazette of the State, and

(*b*) where it is issued or made by the Central Government, be published in the Gazette of India.

(2) Any notification, order, rule or by-law issued or made by the Central Government shall, for general information, be also republished in the Official Gazette of the State.]

CHAPTER II.

The Board of Trustees.

Imposition of duty of working the Act on a Board.

6. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board to be called " The Trustees of the Port of Madras," and such Board shall be a body corporate and have perpetual succession and a common seal and shall sue and be sued by the aforesaid name.

Constitution of the Board.

[2][[3](**7.** The Board shall consist of [4][twenty-one] Trustees including the Chairman :

Provided that, if the Chairman is absent on leave for more than a fortnight and if another Chairman is appointed to act for him, the absent Chairman shall cease to be a Trustee during the continuance of the acting appointment, but shall again become a Trustee on his return to duty.)]

Appointment of Trustees.

[2][[5](**8.** (1) The Chairman shall be appointed by the Central Government [6](by notification in the Official Gazette). The remaining Trustees shall be as follows :—

(*a*) the Collector of Customs, Madras, *ex-officio* ;

(*b*) the Municipal Commissioner for the City of Madras, *ex-officio* ;

(*c*) the General Manager, Madras and Southern Mahratta Railway, *ex-officio* ;

(*d*) the General Manager, South Indian Railway, *ex-officio* ;

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1 Section 5-A was inserted by section 129 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

2 Sections 7 to 13 were substituted for original sections 7 to 17 by section 5 of Madras Act IV of 1923.

3 This section was substituted by section 2 of the Madras Port Trust (Amendment) Act, 1941 (Central Act XVIII of 1941).

4 This word was substituted for the word " eighteen " by section 2 of, and the Schedule to, the Bombay Calcutta and Madras Port Trusts (Constitution) (Amendment) Act, 1948 (Central Act XXXVI of 1948).

5 This section was substituted by section 2 of, and the Schedule to, the Bombay, Calcutta and Madras Port Trusts (Constitution) (Amendment) Act, 1948 (Central Act XXXVI of 1948) for section 8 as substituted by section 2 of the Madras Port Trust (Amendment) Act, 1941 (Central Act XVIII of 1941).

6 These words were inserted by section 130 of the Port Trusts and Ports (Amendment) Act (Central Act XXXV of 1951).

(*e*) one representative of the Mercantile Marine Department chosen by the Central Government ;

(*f*) one representative of the Defence Services chosen by the Central Government ;

(*g*) one representative of the [1][State] Government chosen by the [1] [State] Government ;

(*h*) two representatives of labour chosen by the Central Government after consultation with the registered trade unions, if any, composed of persons employed in the port ; and

(*i*) eleven elected trustees.

(2) Of the eleven elected trustees, one shall be elected by the Municipal Corporation of the City of Madras and the remaining by such [1][State] or local bodies representing commercial interests as the Central Government may, from time to time, by notification in the Official Gazette, specify and such notification may also specify the number of trustees that each of such bodies may elect.

(3) The result of any election held in pursuance of sub-section (2) shall be communicated forthwith to the Central Government by the chief executive authority of the Municipal Corporation or the body concerned.)]

Appointment of Trustees by the Central Government and publication of names of elected Trustees.

[2][9. (1) The Trustees other than the Chairman and those who are *ex-officio* Trustees or elected Trustees shall be appointed either by name or by virtue of office by the Central Government by notification in the Official Gazette.

(2) The names of persons elected as Trustees shall be published by the Central Government in the Official Gazette.]

Disqualifications for office of Trustee.

[3][10. (1) [4][A person shall be disqualified to be a Trustee if he]

[5][(*a*) * * *]

[6][(*b*) has been convicted and sentenced to imprisonment for an offence involving moral turpitude punishable with imprisonment for a term exceeding six months, or to transportation, such conviction not having been subsequently reversed or quashed, unless the Central Government has by order removed the disqualification ;]

(*c*) is an [7][* *] undischarged insolvent, or

(*d*) holds any office or place of profit under the Board :

[8][Provided that this disqualification shall not apply to the Chairman, *ex-officio* Trustees and Trustees appointed by virtue of office] ;

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1 This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

2 Sections 7 to 13 were substituted for original sections 7 to 17 by section 5 of the Madras Port Trust (Amendment) Act, 1922 (Madras Act IV of 1923).

3 Sections 7 to 13 were substituted for original sections 7 to 17 by section 5 of the Madras Port Trust (Amendment) Act, 1922 (Madras Act IV of 1923) and section 9 was re-substituted for original section 9 by section 131 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

4 These words were substituted for the words " No person shall be qualified to be a Trustee who " by section 132 (1) of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

5 Clause (*a*) was omitted by section 132 (1) (*b*), *ibid.*

6 Clause (*b*) was substituted for original clause (*d*) by section 132 (1) (*c*), *ibid.*

7 The words " uncertificated bankrupt, or " were omitted by section 132 (1) (*d*), *ibid.*

8 This proviso was substituted for the original proviso by section 132 (1) (*e*), *ibid.*

(*e*) has, directly or indirectly, any share or interest in any work done by order of the Board, or in any contract or employment, with, by, or on behalf of, the Board.

No person shall be deemed to have a share or interest in such work, contract, or employment by reason only of his—

(i) having a share in any Joint Stock Company which shall contract with or be employed by, or on behalf of, the Board, or

(ii) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or

(iii) being interested in any loan of money to the Board, or

(iv) having a share or interest in any lease, sale, exchange or purchase of immovable property or any agreement for the same, or

(v) having a share or interest in any licence by the Board, or right by agreement or otherwise with the Board to the sole or preferential use of any railway siding or any berth for vessels in the docks belonging to the Board, or

(vi) having a share or interest in the occasional sale to the Board, to a value not exceeding [1] [ten thousand] rupees in any one official year, of any article in which he trades, or

(vii) being a person to whom, or a member of a firm or company to which, any of the functions specified in clauses (*a*) and (*b*) of sub-section (1) of section 39 shall have been relinquished under section 41-A.

(2) [Any elected Trustee or any Trustee appointed by name] who—

(*a*) becomes disqualified for any of the aforesaid reasons, or

(*b*) refuses to act or becomes incapable of acting, or

(*c*) is absent from the meetings of the Board for a period exceeding six consecutive months, or, without the permission of the Board previously obtained, from six consecutive ordinary meetings of the Board, shall cease to be a Trustee, and his office shall thereupon become vacant [3][or]

[4] [(*d*) acts in contravention of the provisions of section 23-A.]

Term of office of Chairman and other Trustees.

[5] [**11.** (1) The Chairman shall hold office during the pleasure of the Central Government.

(2) Subject to the provisions of sections 10, 11-A, 13, 13-A and 20, an elected Trustee or a Trustee appointed by name shall hold office for a term of two years commencing on the first day of April next following the election or appointment, as the case may be, of such Trustee.

(3) Subject to the provisions of section 11-A, a Trustee appointed by the Central Government by virtue of an office shall, until the Central Government by notification in the Official Gazette otherwise direct, continue to be a Trustee so long as he continues to hold that office.

(4) The term of office of every Trustee appointed by name or elected as such and holding office on the first day of April next following the commencement of the Port Trusts and Ports (Amendment) Act, 1951, shall be deemed to have expired on that day.]

Cen Act of 1

1 These words were substituted for the words " two thousand " by section 132 (1) (*f*) of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

2 These words were substituted for the words " Any trustee " by section 132 (2) (*a*), *ibid.*

3 This word was added by section 132 (2) (*b*), *ibid.*

4 This clause was inserted by section 132 (2) (*c*), *ibid.*

5 Sections 7 to 13 were substituted for original sections 7 to 17 by section 5 of the Madras Port Trust (Amendment) Act, 1922 (Madras Act IV of 1923) and section 11 was re-substituted for original section 11 by section 133, *ibid.*

(*Chapter II.—The Board of Trustees.*)

[1][11-A. An elected trustee or a Trustee appointed by the Central Government, whether by name or by virtue of an office, may at any time resign his office by giving notice in writing to the Chairman who shall forward the same to the Central Government, and on such resignation being accepted by that Government, he shall cease to be a Trustee, and his office shall thereupon become vacant.

Resignation of Trustees.

11-B. (1) Every vacancy in the office of an elected Trustee or of a Trustee appointed by name caused by the expiration of the term of office of such Trustee shall be filled by election or appointment, as the case may be, within one month immediately preceding the date of expiration of such term.

Filling of vacancies in the office of Trustees.

(2) Every vacancy in the office of a Trustee appointed by the Central Government by virtue of an office caused by the expiration of the term of office of such Trustee or otherwise shall be filled by appointment within one month of the occurrence of such vacancy.]

[2][12. Any person ceasing to be [3][an elected Trustee or a Trustee appointed by name] shall, unless disqualified under sub-section (1) of section 10, be eligible for re-election or re-appointment.]

Eligibility of Trustees for re-election or re-appointment.

[4][13. Any casual vacancy in the office of an elected Trustee or of a Trustee appointed by name caused by the death or resignation of such Trustee or by virtue of the provisions of sub-section (2) of section 10, shall be filled within one month by election or appointment, as the case may be, in the manner hereinbefore provided:

Filling of casual vacancies.

Provided that the Trustee so elected or appointed shall retain his office so long only as the vacating Trustee would have retained the same if such vacancy had not occurred.

13-A. (1) Nothing in the foregoing provisions shall prevent a person being appointed by the Central Government to fill any vacancy in the office of a Trustee appointed by the Central Government either by name or by virtue of an office after the expiration of the period specified therefor in section 11-B or section 13, as the case may be, if for any reason, it has not been possible for the Central Government to make the appointment within the said period.

Saving provision for appointment and election of Trustees after the prescribed period.

(2) If the Central Government is satisfied that an electing body has failed to elect a Trustee within the period specified therefor in section 11-B or section 13, as the case may be, for reasons beyond its control, the Central Government may, by notification in the Official Gazette, direct that the election shall be held on or before such date (after the expiration of the said period) as may be specified in the notification.

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1 These sections were inserted by section 134 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

2 Sections 7 to 13 were substituted for original sections 7 to 17 by section 5 of the Madras Port Trust (Amendment) Act, 1922 (Madras Act IV of 1923).

3 These words were substituted for the words "a Trustee" by section 135 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

4 Sections 13 and 13-A were substituted for original section 13 by section 136, *ibid.*

(3) Where a Trustee is appointed by name, or elected under sub-section (2) of this section or nominated under section 18 to fill any such vacancy as is referred to in section 11-B after the expiration of the period specified therefor in that section, the term of office of such Trustee shall commence on the date on which his appointment, election or nomination, as the case may be, is notified in the Official Gazette and shall expire on the date on which his term of office would have expired if his appointment, election or nomination, as the case may be, had been made within the period so specified in section 11-B.]

[1][* * * * *]

Nomination of elected Trustees by Central Government in default of election.

18. In the event of default being made [2][* * * *] in electing any Trustee under [3][* * *] [4][section 8 or section 13] within the period prescribed in this behalf, it shall be lawful for the [5][Central Government] [6][* * *] to nominate a person, and the person so nominated shall be deemed to be an elected Trustee.

Grant of leave of absence to Chairman.

19. The [5][Central Government] may from time to time grant to the Chairman such leave of absence as they may deem fit, and any person appointed by the [5][Central Government] to act for the Chairman during any such absence on leave shall, while so acting, be deemed for all the purposes of this Act to be the Chairman.

Appointment of acting Trustees.

[7][20. (1) If an elected Trustee or a Trustee appointed by name departs from Madras with an intention of being absent for a longer period than three months, or if such a Trustee shall have been absent for such period, a person shall be elected or appointed, as the case may be, to act for such Trustee during his absence or until he shall cease to be a Trustee, and the person so acting shall be deemed for all the purposes of this Act to be a Trustee.

(2) Nothing in sub-section (1) shall prevent a person being elected or appointed for a period not longer than three months in the place of an absent Trustee, on the application of the Board if the absentee be an elected Trustee, or at the discretion of the Central Government if he be a Trustee appointed by name or by virtue of an office.]

Remuneration to the Chairman and acting Chairman.

[8][21. The [5][Central Government] may from time to time determine the remuneration to be paid as salary, [9][leave salary or allowances,if any], to the Chairman and to the person appointed under section 19 to Act for the Chairman during his absence on leave and may declare and conditions and restrictions upon and under which such remuneration shall be payable.]

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1 Sections 7 to 13 were substituted for original sections 7 to 17 by section 5 of Madras Act IV of 1923.
2 The words "by the Chamber of Commerce or Trades Association" after the words "being made" were omitted by section 7 of Madras Act II of 1915.
3 The words and figures "section 12 or" were omitted by section 6 of Madras Act IV of 1923.
4 The words and figures "Section 8 or section 13" were substituted for the words and figures "section 15" by *ibid.*
5 These words were substituted for the words "Local Government" by the Adaptation Order of 1937.
6 The words "by notification in the *Fort St. George Gazette*" were omitted by section 6 of Madras Act IV of 1923.
7 This section was substituted for original section 20 by Section 137 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).
8 This section was substituted by section 7 of Madras Act IV of 1923.
9 These words were substituted for the words "leave allowances or other allowances" by section 138 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

(Chapter II—The Board of Trustees.)

[1][21-A. The Central Government may fix the amount of gratuity or compassionate allowance, if any, which shall be paid to the Chairman on his retirement from office and may determine the conditions under which the said gratuity or compassionate allowance shall be payable.

Gratuity, etc., for Chairman.

21-B. Notwithstanding anything contained in this Act, the Central Government may permit the Chairman who, before such appointment had been an employee of the Board, to join the Provident Fund established by the Board under clause (6) of section 28 for the benefit of the employees appointed under this Act and may determine the conditions and restrictions subject to which such permission may be given.]

Permission to Chairman to join Provident Fund.

[2][22. It shall be lawful for the [3][Central Government] to determine from time to time the fees [4](if any) to be paid to the Trustees [5](or to any class of them) other than the Chairman for attendance at meetings, and to prescribe conditions and restrictions upon and under which such fees shall be payable.]

Fees payable to Trustees.

23. The following provisions shall be observed with respect to the proceedings of the Board, namely :—

Provisions concerning Board's proceedings,

[6][(1)] The Board shall meet together and shall from time to time make such arrangements not inconsistent with this Act with respect to the place, day, hour, notice, management, and adjournment of its meetings, and generally with respect to the transaction of business, as it may think fit, subject to the following conditions, namely :—

Meetings, etc., for transaction of business.

(*a*) that a meeting shall be held once at least in every fortnight ;

Ordinary fortnightly meetings.

(*b*) that the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than three Trustees, call a special meeting ;

Special meetings.

(*c*) that no business shall be transacted at any meeting unless at least five Trustees are present throughout such meeting ;

Quorum.

(*d*) that every meeting shall be presided over by the Chairman, if he is present at the time appointed for holding the same, and if and while he is absent, by such one of the Trustees present as may be chosen by the meeting ;

President at meetings.

(*e*) that all questions shall be decided by a majority of votes of the Trustees present, the President having a second or casting vote in all cases of equality of votes ;

Decision of questions by majority of votes.

(*f*) that if a poll be demanded the names of the Trustees voting and the nature of their votes shall be recorded by the President of the meeting ;

Demand of poll.

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1 Sections 21-A and 21-B were inserted by section 139 of the Port Trusts and Ports (Amendment) Act 1951 (Central Act XXXV of 1951).
2 This section was substituted by section 8, of Madras Act IV of 1923.
3 These words were substituted for the words " Local Government " by the Adaptation Order of 1937.
4 These words were inserted by section 140 (*a*) of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).
5 These words were inserted by section 140 (*b*), *ibid.*
6 Old sub-section (1) was repealed and remaining sub-sections renumbered by section 9 of Madras Act IV of 1923.

(*g*) that minutes shall be kept [1][* * *] of the names of the Trustees present and of the proceedings at each meeting in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the President of such meeting, and shall be open to inspection by any trustee during office hours : [and the said minutes, excepting such portion thereof as the Chairman may in any particular case direct, shall also be open to the inspection of the public at the office of the Board during office hours on payment of such fee for each inspection as may from time to time be fixed by the Board ;]

Minutes of proceedings.

(*h*) the President may, with the consent of any meeting, adjourn it ;

Adjournment of meetings.

[3][(*i*) a summary of the minutes of every meeting of the Board shall, as soon as practicable, be published in the Official Gazette.]

Transmission of minutes to Government and their publication in Gazette.

[4][(2)] The Board may, from time to time, appoint Committees consisting of not less than five of its number for carrying into effect any part of the provisions of this Act, with such powers and under such instructions, directions, or limitations as shall be defined by the Board. Three members of any such Committee shall be a quorum ; and the Board shall have power at any time to alter the constitution of or discontinue any such Committee.

Appointment of Committees by Board.

[4][(3)] A Committee may elect a Chairman of its meetings, and if no such Chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be Chairman of the meeting.

President at meetings of Committees.

[4][(4)] Committees may meet and adjourn at their discretion, but the Chairman of the Board may whenever he thinks fit and shall, upon the written request of not less than two members of a Committee, call a Special meeting of such Committee.

Meetings of Committees.

[4][(5)] Questions at any meeting of a Committee shall be decided by a majority of votes of the members present, and in case of an equal division of votes the Chairman shall have a second or casting vote.

Decision of questions at meetings of Committees.

[4][(6)] No business shall be transacted at any such meeting unless at least three of the members of the Committee are present from the beginning to the end thereof.

Quorum in Committees.

[5][**23-A.** No Trustee shall vote on or take part in the discussion of any question coming up for consideration at a meeting of the Board or of any Committee if the question is one in which he has any direct or indirect pecuniary interest by himself or his partner, or in which he is interested professionally on behalf of a client or as agent for any person other than the [6][Central Government], a local authority or a railway company.]

Restriction of power of Trustees to vote or discuss matters in which they are interested.

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1 The words " by the Secretary " were omitted by section 8 of Madras Act II of 1915.
2 These words were added by section 141 (*a*) of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).
3 This sub-clause was substituted for original sub-clause (1) by section 141 (*b*), *ibid.*
4 Old sub-section (1) was repealed and remaining sub-sections were renumbered by section 9 of the Madras Port Trust (Amendment) Act, 1922 (Madras Act IV of 1923).
5 This section was added by section 10, *ibid.*
6 These words were substituted for the word " Government " by the Adaptation Order of 1937.

(Chapter II—The Board of Trustees. Chapter III—Officers and Servants other than the Chairman.)

Validation of acts and proceedings.

24. No act or proceeding of the Board or of a Committee shall be invalid in consequence only of there being a vacancy in the number of the Trustees at the time when such act or proceeding was had or done, or by reason only of there being some defect in the appointment of such Board, Committee or Trustee, or on the ground that they or any of them were disqualified for the office of Trustee.

Delegation of powers to Chairman.

25. (1) The Board may, by resolution in writing, with the sanction of the [1][Central Government], prescribe which of the powers and duties by this Act conferred or imposed upon the Board may be exercised and performed by the Chairman.

(2) The Board may, from time to time, with the like sanction, alter or cancel any such resolution.

Duties of Chairman.

26. The Chairman shall—

(1) attend every meeting of the Board unless prevented by sickness or other reasonable cause ;

(2) exercise supervision and control over the acts and proceedings of all [2] [employees] of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board ;

[3][(3) * * * * * *].

CHAPTER III.

OFFICERS AND SERVANTS OTHER THAN THE CHAIRMAN.

Schedule of Board's staff.

27. The Board shall, from time to time, prepare and sanction a schedule of the staff of [4] [employees (other than the Chairman)] whom the Board shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees, and allowances which the Board sanctions for each such [5][employee] :

Provided that artisans, porters and labourers, and the suppliers of porters and labourers, shall not be deemed to be officers or servants within the meaning of this section or of sections 28 and 29.

28. The Board [6][may] from time to time, frame regulations—

Power to frame regulations regarding leave.

(1) for regulating the grant of leave to the [7] [employees (other than the Chairman)] of the Board ;

Absentee allowances.

(2) for authorizing the payment of allowances to the said [5][employees], or to any of them, whilst absent on leave ;

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1 These words were substituted for the words " Local Government " by the Adaptation Order of 1937.
2 This word was substituted for the words " officers and servants " by section 142 (*a*) of Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).
3 This clause was omitted by section 142 (*b*), *ibid.*
4 These words were substituted for the words " officers (other than the Chairman) and of servants " by section 143, *ibid.*
5 This word was substituted for the words " officer or servants " by *ibid.*
6 This word was substituted for " shall " by section 12 of Madras Act IV of 1923.
7 These words were substituted for the words " officers (other than the Chairman) and servants " by section 143 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

(Chapter III.—Officers and Servants other than the Chairman.)

Acting allowances.

(3) for determining the remuneration to be paid to the persons appointed to act for any such [1][employees] during their absence on leave ;

Length of service,

(4) for regulating the period of service of all such officers and servants ;

Pensions, etc.

(5) for determining the conditions under which such [1][employees], or any of them [2][may become] entitled, on retirement, to pensions, gratuities, or commpassionate allowances, and the amount of such pensions, gratuities, or compassionate allowances ;

Contributions to provident fund.

(6) for authorizing the payment of contributions at prescribed rates and subject to prescribed conditions to any provident fund, which may, with the Board's approval, be established by the [1][employees] appointed under this Act, or to such provident fund, if any, as may be established by the Board, with the approval of the [3][Central Government] for the benefit of such officers and servants ;

Contributions to Welfare fund.

[4][(6-*a*) for authorizing the payment of contributions to any welfare fund which may be established by the Board for the benefit of the employees appointed under this Act :

Provided that the maximum rate of annual contribution to any such welfare fund and the maximum amount to which any such welfare fund may be allowed to accumulate, shall be fixed from time to time by the Central Government ;]

Pensions in the case of subordinates injured or who died while in the service of the Board.

(7) for determining the conditions under which pensions, gratuities, or compassionate allowances may be paid to any of such [1][employees] injured, or to the surviving relatives of any of such [1][employees] [5][who died while in the service of the Board ;]

Matters relating to terms and conditions of service not covered by other clauses.

[6][(8) for regulating the recruitment, promotion, conduct, discipline, punishment and any other matter relating to the terms and conditions of service applicable to the employees of the Board or allotment of premises to them or their rights and their privileges, not covered by any of the foregoing clauses.]

Subject to the provisions of [7][sub-section (5*b*) of section 36 of the Indian Ports Act, 1908 (XV of 1908)] all pensions, contributions, and allowances mentioned in this section shall be chargeable to the general fund of the Board ;

Proviso.

[8][Provided that the regulations framed under this section shall not take effect unless and until they have been approved by the Central Government.] ;

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1 This word was substituted for the words "Officers and Servants" by the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV) of 1951.

2 The words "may become" were substituted for the words "shall be" by section 12 of Madras Act IV of 1923.

3 These words were substituted for the words "Local Government" by the Adaptation Order of 1937.

4 This clause was inserted by section 144 (*a*) of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

5 These words were substituted for the words "killed in the execution of their duty" by section 12 of Madras Act IV of 1923.

6 This clause was inserted by section 144 (*b*).

7 These brackets, figures and letters were substituted for the word and figures "section 94" by section 144 (*c*), *ibid.*

8 This proviso was substituted for the original proviso by section 144 (*d*), *ibid.*

(Chapter III.—Officers and Servants other than the Chairman.)

[1][28-A. Notwithstanding anything contained in sections 27 and 28, the Board may, subject to the sanction of the [2][Central Government], frame regulations of the nature mentioned in [3][ ] section 28 for the benefit of artisans, porters and labourers and the suppliers of porters and labourers; and subject to the provisions of [4][sub-section (5*b*) of section 36 of the Indian Ports Act, 1908 (XV of 1908)], all pensions, contributions and allowances payable under any such regulation and any payments of the same nature that have already been made shall be chargeable to the general fund of the Board.]

Power to frame regulations for artisans, porters, etc.

[5][29. (1) Subject to the provisions of the Schedule, for the time being in force sanctioned by the Board under section 27 and of the regulations and rules made by the Board under sections 28 and 92 and also to the provisions of section 30, the power of appointing, promoting, granting leave to, suspending, fining, reducing or dismissing, or of disposing of any other question relating to the services of, the employees of the Board including the power of dispensing with the services of any such employee otherwise than by reason of the misconduct of such employee shall be exercised, in the case of employees whose maximum monthly salary exclusive of allowances is less than one thousand rupees, by the Chairman and in every other case, by the Board.

Appointments, etc, by whom to be made.

(2) The Chairman may upon such terms as he may think fit and subject to the provisions referred to in sub-section (1) and to the Chairman's powers of revision and control, delegate to the head of any department for the time being all or any of his powers under the said sub-section in respect of the employees of that department whose monthly maximum salary exclusive of allowances does not exceed three hundred and fifty rupees.

(3) Notwithstanding anything contained in sub-section (1), the power to make appointment to posts of heads of departments shall be exercisable only by the Central Government after consultation with the Chairman.

(4) The Central Government may by order specify each of the posts the incumbent of which shall, for the purposes of this section, be regarded as the head of a department.]

[5][29-A. Notwithstanding anything contained in section 74, all fines realized under section 29 shall be credited to any such welfare fund as may be established by the Board for the benefit of the employees appointed under this Act.]

Disposal of fines realized under section 29.

[6][30. (1) Every order made by the Board under section 27 or section 29, save where such order has been made in accordance with the regulations, for the time being in force, framed under section 28, shall, so far as the same relates to any employee of the Board whose maximum monthly salary exclusive of allowances is not less than one thousand rupees, be subject to the sanction of the Central Government.

Sanction of Central Government when necessary.

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1 This section was added by section 13 of Madras Act IV of 1923.

2 These words were substituted for the words "Local Government" by the Adaptation Order of 1937.

3 The words, brackets and figures "clauses (5) to (7) of" were omitted by section 145 (*a*) of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

4 These words, brackets, figures and letter were substituted for the word and figures "section 94" by section 145 (*b*), *ibid.*

5 Sections 29 and 29-A were substituted for original section 29 by section 146, *ibid.*

6 This section was substituted for original section 30 by section 147, *ibid.*

(Chapter III.—Officers and Servants other than the Chairman. Chapter IV.—Property of the Board.)

(2) For the purposes of sub-section (1), any person who may, from time to time, be employed as Consulting Engineer to the Board otherwise than on the basis of payment of monthly salary shall be deemed to be an employee whose maximum monthly salary exclusive of allowances is not less than one thousand rupees.]

CHAPTER IV.

PROPERTY OF THE BOARD.

Property vested in Board.

31. From and after the coming into force of this Act, the several immovable properties specified in Schedule II and all movable property held by or in trust for the Board of Trustees of the Harbour of Madras shall vest in the Board but subject to all charges and liabilities affecting the same.

Power to acquire, hold or alienate property.

32. The Board shall, for the purposes of this Act, have power to acquire and hold immovable or movable property, whether within or without the limits of the port, and the Board shall also have power to lease or sell any immovable or movable property which may have become vested in or acquired by it :

Provided that no such acquisition of immovable property not being an acquisition from the [1][Government] shall be valid unless the consent of the [1][Central Government] to such acquisition shall have been first obtained ;

Provided also that no such sale or lease for any term exceeding [3][thirty years] of any immovable property shall be valid unless the sanction of the [1][Central Government] thereto shall have been first obtained.

Application of Land Acquisition Act.

33. When any immovable property is required for the purposes of this Act, the [1][Central Government] may declare that such property is required for a public purpose, and may order proceedings to be taken for obtaining possession of the same under the Land Acquisition Act, 1894. Such property, when so acquired, shall, on payment by the Board of the compensation awarded and all costs connected with its acquirement, be deemed to be vested in the Board.

34. [*Repealed by Schedule I to Madras Act, IV of* 1919.]

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1 The word "Crown" was substituted for the words "Secretary of State for India in Council" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

2 These words were substituted for the words "Local Government" by the Adaptation Order of 1937.

3 These words were substituted for the words "ten years" by section 148 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

CHAPTER V.

WORKS AND SERVICES.

Power to execute works and provide appliances.

35. The Board may execute such works and provide such appliances as the Board may determine to be necessary or expedient for the purposes of the port.

36. Such works and appliances may include—

General nature of works to be executed or appliances to be provided.

(1) wharves, quays, docks, stages, jetties and piers within the port or on the foreshore of the port, with all necessary and convenient arches, drains, landing places, stairs, fences, roads, railways and approaches ;

[1][(2) railways, tramways, locomotives, rolling-stock, sheds, warehouses and other accommodation for passengers and goods and other appliances for carrying passengers and for conveying, receivingand storing goods, landed, or to be shipped or otherwise ;]

(3) moorings for carrying out the purposes of this Act, and cranes, scales, and all other necessary means and appliances for loading and unloading vessels ;

(4) reclaiming, excavating, enclosing and raising any part of the foreshore of the port which may be necessary for the execution of the works authorized by this Act, or otherwise for the purposes of this Act ;

(5) such breakwaters and other works within or without the limits of the port as shall be expedient for the protection of the harbour or port ;

(6) dredgers and other machines for cleaning, deepening and improving any portion of the port or foreshore ;

(7) pilot boats and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port ;

(8) vessels, steam tugs or other boats for use as well within the limits of the port as beyond those limits, whether in territorial waters or otherwise, for the purpose of towing or rendering assistance to any vessel, whether entering or leaving the port or bound elsewhere, and for the purpose of saving or protecting life or property and for the purpose of landing, shipping or transhipping [passengers or] goods under section 39 ;

(9) boats, barges, and other appliances necessary in connexion with the supply of water to shipping in the port ;

(10) engines and other appliances necessary for the extinguishing of fires in the port and on the property of the Board ;

(11) all such other works and appliances as may be, in the opinion of the Board, expedient for carrying out the purposes of this Act.

Power to order survey or examination of works.

37. The [2][Central Government] may, at any time, order a local survey or examination of any works of the Board, or the intended site thereof. The cost of such survey and examination shall be borne and paid by the Board out of the moneys in the Board's han virtue of this Act.

1 This clause was substituted for original clause (2) as substituted by section 9 of Madras Act II of 1915, by section 15 of Madras Act IV of 1923.
2 These words were inserted by section 9 of Madras Act II of 1915.
3 These words were substituted for the words "Local Government" by the Adaptation Order of 1937.

(*Chapter V.—Works and Services.*)

Power of Central Government to restore or complete works at the cost of Board.

38. If, at any time, the Board allow any work or appliance constructed or provided by the Board or vested in it under this Act to fall into disrepair,

or do not, within a reasonable period, complete any work commenced by the Board, or included in any estimate sanctioned by the [1] [Central Government],

or do not, after due notice in writing, proceed to carry out effectually any work or repair or to provide any appliance which is necessary in the opinion of the [1] [Central Government] for the purposes of this Act,

the [1][Central Government] may cause such work to be restored or completed or carried out, or such repair to be carried out, or such appliance to be provided ; and the cost of any such restoration, completion, construction [2] [repair] or provision shall be paid by the Board ; and if the Board do not within a reasonable time provide for such payment, the same shall be recoverable in the manner provided in the [3] [Local Authorities Loans Act, 1914]. Cent Act of 1

Powers, etc. of the Board as Conservator of Port or as body appointed under section 36 of the Indian Ports Act, 1908.

[4][**38-A.** All the powers, authorities and restrictions contained in this Act in respect of the works by this Act authorised shall apply to the works which may be executed by the Board as the Conservator of the Port or as the body appointed under sub-section (1) of section 36 of the Indian Ports Act, 1908 (XV of 1908), not being works the cost of which is chargeable to the pilotage account of the port under sub-section (5*b*) of that section, and also to the sanction of such works, the estimates therefor and the expenditure thereunder.]

Performance of services by the Board.

[5][**39.** (1) The Board shall, according to its powers, provide all reasonable facilities for and shall have power to undertake the following services :—

(*a*) landing, shipping or transhipping passengers and goods between vessels in the port and the wharves, piers, quays or docks in possession of the Board ;

(*b*) receiving, removing, shifting, transporting, storing or delivering goods brought within the Board's premises ;

(*c*) carrying passengers by rail, tramway or otherwise within the limits of the port, subject to such restrictions and conditions as the [1][Central Government] may see fit to impose ; and

(*d*) receiving and delivering, transporting and booking and despatching goods originating in the vessels in the port and intended for carriage by the neighbouring railways, or *vice versa*, as a railway company or administration under the Indian Railways Act, 1890.

(2) The Board shall, if so required by any owner, perform in respect of goods all or any of the services mentioned in clauses (*a*), (*b*) and (*d*) of sub-section (1), provided that the Board shall not be bound to perform any service

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1 These words were substituted for the words " Local Government " by the Adaptation Order of 1937.

2 This word was inserted by section 149 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

3 These words and figures were substituted for the words and figures " Local Authorities Loans Act, 1879," by section 32 of Madras Act IV of 1923.

4 This section was inserted by section 150 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

5 Sections 39 to 41-A were substituted for sections 39 to 41 by section 16, *ibid.*

which it has relinquished under the provisions of clause (*a*) of sub-section (1) of section 41-A.

(3) The Board shall, if required, take charge of the goods for the purpose of performing the service and shall give a receipt in the form and to the effect prescribed from time to time by the [1][Central Government].

After any goods have been taken charge of and a receipt given for them under this section no liability for any loss or damage which may occur to them shall attach to any person to whom a receipt shall have been given or to the master or the owner of the vessel from which the goods have been landed or transhipped.]

Responsibility of Board for loss, etc., of goods.

[2][**40.** (1) The responsibility of the Board for the loss, destruction or deterioration of goods of which it has taken charge shall, subject to the other provisions of this Act and subject also in the case of goods received for carriage by railway to the provisions of the Indian Railways Act, 1890, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872, omitting the words "in the absence of any special contract" in section 152 of the last mentioned Act. Provided that, till the receipt mentioned in sub-section (3) of section 39 is given by the Board the goods shall be at the risk of the owner.

(2) The Board shall not be in any way responsible for loss of or damage to goods of which it has taken charge, unless notice of such loss [3][or damage] shall have been given within one month of the date of the receipt given for the goods under sub-section (3) of section 39.]

Performance of services by persons to whom the services have been relinquished by the Board.

[2][**41.** (1) Any person to whom any or all of the services under clauses (*a*) and (*b*) of sub-section (1) of section 39 has or have been relinquished under section 41-A, shall if so required by the owner, perform in respect of goods any of the services so relinquished and for that purpose take charge of the goods and give a receipt in the form and to the effect prescribed from time to time by the [1][Central Government].

(2) The responsibility of any such person for the loss, destruction or deterioration of goods of which he has taken charge shall subject to the other provisions of this Act be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872.]

Relinquishment of services subject to the control of the Central Government.

[2][**41-A.** (1) The Board may, subject to the sanction of the [1][Central Government] and to such conditions as the [1][Central Government] may prescribe,—

(*a*) enter into an agreement relinquishing the performance of any of the services specified in clauses (*a*) and (*b*) of sub-section (1) of section 39 to an approved person, or,

(*b*) enter into an agreement accepting a greater or less liability than that imposed on the Board by sub-section (1) of section 40.

(2) Every agreement entered into under this section shall be in writing and signed by or on behalf of the parties concerned.

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1 These words were substituted for the words "Local Government" by the Adaptation Order of 1937.
2 Sections 39 to 41-A were substituted for sections 39 to 41 by section 16 of Madras Act IV of 1923.
3 These words were inserted by section 151 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

(Chapter V.—Works and Services. Chapter VI—Imposition and Recovery of Rates.)

(3) No person to whom the performance of any service specified in clause (*a*) or (*b*) of sub-section (1) of section 39 is relinquished shall charge or recover for such service any sum in excess of the amount leviable according to the scale framed under section 42, section 43 or section 43-A if such service were performed by the Board.

(4) Notwithstanding such relinquishment, the Board may charge dues according to the scales laid down in sections 42, 43 and 43-A for the use of its works or appliances or for other services connected with that which has been relinquished without thereby incurring any liability under section 40.]

CHAPTER VI.

IMPOSITION AND RECOVERY OF RATES.

Scale of rates.

[1][42. The Board shall frame a scale of rates at which and a statement of the conditions under which any of the services specified hereunder shall be performed by itself or by a person to whom any service has been relinquished under section 41-A or partly by one and partly by the other :—

(*a*) transhipping of passengers or goods between vessels in the harbour ;

(*b*) landing and shipping of passengers or goods from or to such vessels to or from any wharf, quay, pier, dock, land or building in the possession or occupation of the Board or at any place within the limits of the port ;

(*c*) cranage or porterage of goods on any such place ;

(*d*) wharfage, storage or demurrage of goods on any such place ;

(*e*) any other service in respect of vessels, passengers or goods [2][excepting the services in respect of vessels for which fees are chargeable under the Indian Ports Act, 1908 (XV of 1908)].

Scale of rates and statement of conditions for use of property belonging to the Board.

[3][43. The Board shall also frame a scale of rates on payment of which and a statement of conditions under which any property belonging to or in the possession or occupation of the Board or any place within the limits of the port may be used for the purposes specified hereunder :—

(*a*) approaching or lying at or alongside any moorings' wharf, quay, pier, dock, land, buildings or places aforesaid by vessels or boats ;

(*b*) entering upon or plying for hire at or on any wharf, quay, pier, dock, land, building or place aforesaid by animals or vehicles carrying passengers or goods ;

(*c*) leasing of land or sheds by owners of goods imported or intended for export or by steamer agents ;

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1 This section was substituted for section 42 as substituted by section 12 of Madras Act II of 1915, by section 17 of Madras Act IV of 1923.

2 These words brackets and figures were added by section 152 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

3 Sections 43 and 43-A were substituted for original section 43 as amended by section 13 of Madras Act II of 1915, by section 18 of Madras Act IV of 1923.

(*d*) any other use of any land, works or appliances belonging to or provided by the Board.]

Consolidated rates for combination of services.

[1][43-A. The Board may prescribe consolidated rates for any combination of the services specified in section 42 or for any combination of such service or services with any user or permission to use any property belonging to or in the possession or occupation of the Board, as specified in section 43.]

Power to levy concessional rate of charges on coastal Cargo.

[2][43-B. In framing scales under any of the foregoing provisions of this Chapter, the Board may prescribe a lower rate of charges in respect of cargo carried in a vessel from one Indian port to another.

Explanation.—For the purposes of this section, the expression 'Indian port' includes the ports of Diu, Daman, Marmagao, Panjim, Mahe, Karaikal and Pondicherry.]

Prior sanction of Central Government to such scales.

44. (1) Every scale [3][and every statement of conditions] framed by the Board under section 42, [4][section 43 or section 43-A] shall be submitted to the [5][Central Government] for sanction; and, when so sanctioned and published in the [6][Official Gazette] shall have the force of law; and subject to the like sanction and publication may from time to time be amended or added to by the Board.

Power of Central Government to cancel scale of tolls, etc.

[7][(1*a*) It shall be competent for the Central Government at any time to cancel any of the scales framed under the foregoing provisions of this Chapter, or to call upon the Board to modify any portion of such scales, and thereupon the Board shall modify such scales accordingly.]

Remission of rates in special cases.

(2) The Board may, in special cases, [8][for reasons to be recorded in writing], remit the whole or any portion of the rates or of any charge leviable according to any scale in force under this section. [9](It may also on its own initiative correct mistakes, [10][and] remit overcharges made in its bills,[11][ ]).

Power to fix maxima and minima rates.

[12][(3) In respect of any item of any scale of rates framed under the powers conferred by section 42, [4][section 43, or section 43-A] the Board, with the previous sanction of the [5][Central Government], may prescribe, instead of a fixed rate, maximum and minimum rates, and may levy any charges not exceeding the maximum and not below the minimum thus laid down.]

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1 Sections 43 and 43-A were substituted for original section 43 as amended by section 13 of Madras Act II of 1915, by section 18 of Madras Act IV of 1923.

2 This section was inserted by section 153 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

3 These words were inserted by section 8 of Madras Act II of 1919.

4 These words and figures were substituted for the words and figures "or section 43" by section 32 of Madras Act IV of 1923.

5 These words were substituted for the words "Local Government" by the Adaptation Order of 1937.

6 These words were substituted for the words "*Fort St. George Gazette*" by *ibid.*

7 This sub-section was inserted by section 154 (*a*) of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

8 These words were substituted for the words "with the previous sanction of the Central Government" by section 154 (*b*) (i), *ibid.*

9 These words were added by section 14 of Madras Act II of 1915.

10 This word was inserted by section 154 (*b*) (ii) of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

11 The words "and write off irrecoverable sums up to a limit of Rs. 200 in each case" were omitted by section 154 (*b*) (iii), *ibid.*

12 This sub-section was added by section 14 of Madras Act II of 1915.

(Chapter VI.—Imposition and Recovery of Rates.)

Refund of overcharges.

[1][44-A. No person shall be entitled to a refund of an overcharge [2](* * *) unless his claim to the refund has been preferred in writing by him or in his behalf to the [3](Board) within six calendar months from the date of payment.]

Power to increase rates to cover deficiency of revenue.

45. (1) If, on the preparation of the estimate of any year, it appears that the estimated income of the Board for such year, after deducting therefrom the estimated expenditure of such year, will be insufficient for the payment of the interest which may be payable by the Board during such year to the [3][Government] or to any other creditor, and of any sinking fund established under section 69 and of any sum the repayment of which is due in pursuance of any terms under section 63 ;

or if, at any time in the course of a year, it appears that the income of such portion of the year as has then elapsed, and the estimated income of the residue of such year, after deducting therefrom the actual expenditure of such past portion and the estimated expenditure of such residue, will be insufficient for the payment of the said interest, sinking funds and sums due ;

the Board may, and upon the requisition of the [4][Central Government] shall, increase the rates, for the time being in force, to such extent as will render the estimated income of the year sufficient, as nearly as may be, for the payment in full of the said interest, sinking funds and sums due.

(2) Such increased rates shall be fixed by the Board, and shall be submitted to the [Central Government], and, if approved by the [4][Central Government], shall be published in the [5][Official Gazette], and shall become leviable after the expiration of three months from the date of such publication, and continue leviable until altered by the Board with the sanction of the [4][Central Government].

Power of Central Government to enhance rates if Board fails to do so.

46. If the Board shall, for fifteen days after the receipt by the Chairman of any such requisition from the [4][Central Government], neglect or refuse to submit to the [4][Central Government] for approval such increased rates the [4][Central Government] may, by notification in the [5][Official Gazette], increase such rates as they think fit ; and such notification shall have the same force as if new scale of rates to the same effect had been duly framed under section 42, [6][section 43 or section 43-A] and sanctioned and published under section 44.

Disability of Board to lease rates without sanction of Central Government.

47. The Board shall not lease, farm, sell or alienate any power vested in it under this Act of levying rates with out the assent of the [4][Central Government].

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1 This section was added by section 9 of Madras Act II of 1919.

2 The words " in respect of animals or goods landed at the harbour, if for import, or admitted into the harbour premises, if for export " were omitted and the word " Board " was substituted for " Port Trust " by section 19 of Madras Act IV of 1923.

3 The word " Crown " was substituted for the words " Secretary of State for India in Council " by the Adaptation Order of 1937 and the word " Government " was substituted for " Crown " by the Adaptation Order of 1950.

4 These words were substituted for the words " Local Government " by the Adaptation Order of 1937.

5 These words were substituted for the words " *Fort St. George Gazette* " by *ibid.*

1 These words and figures were substituted for the words and figures " or section 43 " by section 32 of Madras Act IV of 1923.

(Chapter VI.—Imposition and Recovery of Rates.)

Payment of fines and damages to Board.

48. All moneys recovered from any [1][person] under this Act by way of fine or damages shall be paid to the Board. [2][This section does not apply to fines imposed by a Court.]

Moneys received by the Board as Conservator of Port or as a body appointed under section 36 of the Indian Ports Act, 1908.

[3][**49.** All moneys received by the Board as the Conservator of the Port, or as the body appointed under sub-section (1) of section 36 of the Indian Ports Act, 1908 (XV of 1908), excluding all fees and all fines and penalties creditable to the pilotage account of the Port under sub-section (5*a*) of that section, shall be deemed to be a portion of the income of the Board and shall be included in its annual estimates and accounts.]

Time for payment of rates on goods.

50. Rates in respect of goods to be landed shall be payable immediately on the landing of the goods; in respect of goods to be removed from the premises of the Board, or to be shipped for export, or transhipped, shall be payable before the goods are removed or shipped or transhipped.

Lien for rates.

51. For the amount of all rates leviable under this Act in respect of any goods [4][and for the rent due to the Board on any buildings, plinths, stacking areas or other premises on or in which any goods may have been placed] the Board shall have a lien on such goods, and may seize and detain the same until such rates are fully paid.

Priority of lien of Board over other liens and claims.

52. [5][Such lien] shall have priority over all other liens and claims, except for general average and for the ship-owner's lien upon the said goods for freight and other charges where such lien exists and has been preserved in the manner provided in section 53, and for primage, and for money payable to [6][. . . .] the [7][Government].

Preservation of lien for freight after goods are landed.

53. If the master or owner of any vessel or his agent, at or before the time of landing from such vessel any goods at any dock, wharf, quay, stage, jetty or pier in the occupation of the Board, gives to the Board notice in writing that such goods are to remain subject to a lien for freight or other charges including landing charges payable to the ship-owner to an amount to be mentioned in such notice, such goods shall continue liable to such lien to such amount.

Retention of such goods until lien is discharged.

54. Such goods shall be retained in the custody of the Board, or with the consent of the Chief Officer of Customs in the public customs wharves and warehouses, at the risk and expense of the owners of the said goods until such lien is discharged as hereinafter mentioned; and godown or storage rent shall be payable by the party entitled to such goods for the time during which they may be so retained.

1The word " person " was substituted for " offender " by section 20 of Madras Act IV of 1923.
2This sentence was inserted by the Adaptation Order of 1937.
3This section was substituted for original section 49 by section 155 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).
4These words were added by section 21 of Madras Act IV of 1923.
5These words were substituted for the words " The lien for such rates " by section 22, *ibid.*
6The words " His Majesty or " were omitted by the Adaptation Order of 1937.
7The word " Crown " was substituted for the words " Secretary of State for India in Council " by the Adaptation Order of 1937 and the word " Government " was substituted for " Crown " by the Adaptation Order of 1950.

(*Chapter VI.—Imposition and Recovery of Rates.*)

Discharge of ship-owner's lien for freight.

55. Upon the production to any [1][employee] appointed by the Board in that behalf of a document purporting to be a receipt for, or a release from, the amount of such lien, executed by the person by whom or on whose behalf such notice has been given, the Board may permit such goods to be removed without regard to such lien, provided that the Board shall have used reasonable care in respect to the authenticity of such document.

Sale of goods after two months if rates or rents are not paid or lien for freight is not discharged.

[2][**56.** It shall be competent to the Board, at the expiry of two months from the time when any goods have passed into its custody, or in the case of perishable goods at the expiry of such shorter period not being less than 24 hours as the Board shall think fit, to sell by public auction so much as may be necessary of such goods, (*a*) if any rates payable to the Board in respect of such goods have not been paid ; or (*b*) if any rent referred to in section 51 in respect of any place on or in which such goods have been stored has not been paid ; or (*c*) if any lien of any ship-owner for freight or other charges of which notice has been given has not been discharged and if the person claiming such lien for freight or other charges has made an application for such sale.]

Notice of sale.

57. Before making such sale, ten days' notice of the same shall be given by publication thereof in the [3][Official Gazette] unless the goods are of so perishable a nature, as, in the opinion of the Board, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

Notice of sale to owner.

58. If the address of the owner of the goods has been stated on the manifest of the cargo or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address, or sent by post ; but the title of a *bona fide* purchaser of such goods shall not be invalidated by reason of the omission to send the notice he reinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

Disposal of goods not removed from the premises of the Board within time limited.

[4][**58-A.** (1) Notwithstanding anything contained in this Act, where any goods placed in the custody of the Board upon the landing thereof are not removed by the owner or other person entitled thereto from the premises of the Board within one month from the date on which such goods were placed in the custody of the Board, the Board may, if the address of such owner or person is known, cause a notice to be served upon him by letter delivered at such address or sent by post, or if the notice cannot be so served upon him or his address is not known, cause a notice to be published in the Official Gazette and also in at least one of the principal local daily newspapers, requiring him to remove the goods forthwith and stating that in default of compliance therewith the goods are liable to be sold by public auction :

Provided that where all the rates and charges payable under this Act in respect of any such goods have been paid, no notice of removal shall be

1 This word was substituted for the word " officer " by section 143 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).
2 This section was substituted by section 23 of Madras Act IV of 1923.
3 These words were sub tituted for the words' ' *Fort St. George Gazette* " by the Adaptation Order of 1937.
4 This section was inserted by section 156 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

so served or published under this sub-section unless two months have expired from the date on which the goods were placed in the custody of the Board.

(2) If such owner or person does not comply with the requisition in the notice served upon him or published under sub-section (1), the Board may, at any time after the expiration of one month from the date on which the notice was so served or published, sell the goods by public auction after giving notice of the sale in the manner specified in sections 57 and 58.

(3) The Central Government may, by notification in the Official Gazette, exempt any goods or class of goods from the operation of this section.]

Application of sale-proceeds.

59. (1) [1][The proceeds of every sale under section 56 or section 58-A] shall be applied as follows :—

(*a*) in payment of the expenses of the sale ;

(*b*) in payment, according to their respective priorities, of the liens and claims excepted in section 52 from the priority of the lien of the Board ;

(*c*) in payment of the rates and expenses of landing, removing, storing or warehousing the same, and of all other charges due to the Board in respect thereof.

(2) The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agents, on his applying for the same ; provided such application be made within one year from the sale, or reason be shown to the satisfaction of the Board why such application was not so made ; and, in case such application shall not be so made or reason shown, such surplus shall be held by the Board upon trust for the purposes of this Act.

Recovery of rates and charges by distraint of vessel.

60. If the master of any vessel in respect of which any rates or penalties are payable under this Act, or under any by-laws, rules or orders made in pursuance thereof, refuses or neglects to pay the same or any part thereof on demand, the Board may apply to the Chief Officer of Customs of the port, and that officer shall distrain or arrest such vessel and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Board is paid ;

and, in case any part of the said rates of penalties, or of the cost of the distress or arrest, or of the keeping of the same, remains unpaid for the space of five days next after any such distress or arrest has been so made, the Chief Officer of Customs may cause the vessel or other thing so distrained or arrested to be sold, and, with the proceeds of such sale, shall satisfy such rates or penalties and costs, including the costs of sale remaining unpaid rendering the surplus (if any) to the master of such vessel on demand.

Grant of port-clearance after payment of rates.

61. If the Board give to the officer of Government whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of rates or penalties chargeable under this Act, or under any by-laws, rules or orders made in pursuance thereof, against such vessel, or by the owner or master of such vessel in respect thereof or against or in respect of any goods on board such vessel, such officer shall not grant such port-clearance until the amount so chargeable has been paid.

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1 These words, figures and letter were substituted for the words " The proceeds of every such sale " by section 157 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

(Chapter VI—Imposition and Recovery of Rates.
Chapter VII.—The Borrowing Powers of the Board.)

Alternative remedy by suit.

62. Notwithstanding anything contained in the twelve sections last preceding and in section 48, the Board may recover by suit any rates, damages, expenses, costs, or in case of sale the balance thereof, when the proceeds of sale are insufficient, or any penalties or fines payable to, or recoverable by, the Board under this Act or under any by-laws made in pursuance thereof.

CHAPTER VII.

[1] [THE BORROWING POWERS OF THE BOARD.]

Power to raise loans.

[**63.** (1) The Board may, with the previous sanction of the [3][Central Government], [4][ ] and after due notification in the [5][Official Gazette], raise loans for the purposes of this Act.

(2) Loans may be raised in the open market on Port Trust securities or obtained from the [6][State Government] or the [7][Central Government]. The terms of all loans shall be subject to the approval of the [8][Central Government].]

Port Trust securities.

[**64.** (1) The Board may, with the sanction of the [8][Central Government], prescribe the form in which Port Trust securities shall be issued, the mode in which and the conditions subject to which they may be transferred.

(2) The right to issue in respect of moneys secured by Port Trust securities shall be exercisable by the holders thereof for the time being without preference in respect of priority of date.]

Rights of survivors of joint or several payees of securities.

[9][**64-A.** (1) Notwithstanding anything in section 45 of the Indian Contract Act, 1872 (IX of 1872),—

(*a*) when any Port Trust security is payable to two or more persons jointly and either or any of them dies, the Port Trust security shall be payable to the survivor or survivors of those persons, and

(*b*) when any such security is payable to two or more persons severally and either or any of them dies, the security shall be payable to the survivor or survivors of those persons or to the representatives of the deceased or to any of them.

(2) This section shall apply whether such death occurred or occurs before or after the commencement of this Act.

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1 These words were substituted for the word "Loans" by section 24 of Madras Act IV of 1923.
2 Sections 63, 64, 64-A and 64-B were substituted for original sections 63 and 64 by section 25, *ibid.*
3 These words were substituted forin the words "Local Government" by the Adaptation Order of 1937.
4 The words and figure "and, in the case of a loan of an amount of not less than 5 lakhs of rupees, of the Governor-General in Council," were omitted by *ibid.*
5 These words were substituted for the words "*Fort St. George Gazette*" by *ibid.*
6 The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.
7 These words were substituted for the words "Government of India" by the Adaptation Order of 1937.
8 These words were substituted for the words "Governor-General in Council" by *ibid.*
9 Sections 64-A, 64-B, 64-C, 64-D, 64-E, 64-F, 64-G, 64-H, 64-I and 64-J were substituted for sections 63-A and 64-A as substituted for original sections 63 and 64 by sect on 25 of Madras Act IV of 1923, by section 156 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

(3) Nothing herein contained shall affect any claim which any representative of a deceased person may have against the survivor or survivors under or in respect of any security to which sub-section (1) applies.

(4) For the purposes of this section, a body incorporated under the Indian Companies Act, 1913 (VII of 1913), or the Co-operative Societies Act, 1912 (II of 1912), or any other enactment for the time being in force, whether within or without India, relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved.]

Power of one of two or more joint holders to grant receipts.

[1] [**64-B.** Where two or more persons are joint holders of any Port Trust security, any one of those persons may give an effectual receipt for any interest or dividend payable in respect of such security, unless notice to the contrary has been given to the Board by any other of the holders.]

Indorsements to be made on security itself.

[1] [**64-C.** Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881 (XXVI of 1881), no indorsement of a Port Trust security which is transferable by indorsement shall be valid unless made by the signature of the holder inscribed on the back of the security itself.]

Indorser of security not liable for amount thereof.

[1] [**64-D.** Notwithstanding anything in the Negotiable Instruments Act, 1881 (XXVI of 1881), a person shall not by reason only of his having indorsed any Port Trust security be liable to pay any money due either as principal or as interest thereunder.]

Impression of signature on securities.

[1] [**64-E.** (1) The signature of the person authorized to sign Port Trust securities on behalf of the Board may be printed, engraved or lithographed, or impressed by such other mechanical process as the Board may direct on such securities.

(2) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the person so authorised.]

Issue of duplicate securities.

[1] [**64-F.** (1) When any Port Trust security is alleged to have been lost, stolen or destroyed either wholly or in part, and a person claims to be the person to whom but for the loss, theft or destruction it would be payable, he may, on application to the Board, and on producing proof to its satisfaction of the loss, theft or destruction and of the justice of the claim and on payment of the prescribed fee, if any, obtain from the Board an order for—

(*a*) the payment of interest in respect of the security said to be lost, stolen or destroyed pending the issue of a duplicate security; and

(*b*) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss, theft or destruction.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the prescribed manner.

1 Sections 64-A, 64-B, 64-C, 64-D, 64-E, 64-F, 64-G, 64-H, 64-I and 64-J were substituted for sections 63 and A-64-A as substituted for original sections 63 and 64 by section 25 of Madras Act IV of 1923, by section 156 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

(Chapter VII.—The Borrowing Powers of the Board.)

(4) If at any time before the Board becomes discharged under the provisions of this Act from liability in respect of any security the whole of which is alleged to have been lost, stolen or destroyed, such security is found, any order passed in respect thereof under this section shall be cancelled.]

Issue of converted etc., securities.

[1] [**64-G.** (1) The Board may, subject to such conditions as may be prescribed, on the application of a person claiming to be entitled to a Port Trust security or securities, on being satisfied of the justice of the claim and on delivery of the security or securities receipted in the prescribed manner and on payment of the prescribed fee, if any, convert, consolidate or sub-divide the security or securities, and issue to the applicant a new security or securities accordingly.

(2) The conversion, consolidation or sub-division referred to in sub-section (1) may be into a security or securities of the same or different classes or of the same or different loans.]

Discharge in certain cases.

[1] [**64-H.** Notwithstanding anything in section 10 of the Indian Limitation Act, 1908 (IX of 1908)—

(i) on payment of the amount due on a Port Trust security on or after the date on which payment becomes due, or

(ii) when a duplicate security has been issued under section 64-F, or

(iii) when a new security or securities has or have been issued upon conversion, consolidation or sub-division under section 64-G,

the Board shall be discharged from all liability in respect of the security or securities so paid or in place of which a duplicate or new security or securities has or have been issued—

(*a*) in the case of payment—after the lapse of six years from the date on which payment was due ;

(*b*) in the case of a duplicate security—after the lapse of six years from the date of the publication under sub-section (3) of section 64-F of the list in which the security is first mentioned or from the date of the last payment of interest on the original security, whichever date is later ;

(*c*) in the case of a new security issued upon conversion, consolidation or sub-division—after the lapse of six years from the date of the issue thereof.]

Power to make rules.

[1] [**64-I.** (1) The Board may from time to time make rules to provide for all or any of the following matters, namely :—

(*a*) the person, if any, authorized to sign, the mode of affixing the corporate seal and of attestation of documents relating to Port Trust securities ;

(*b*) the manner in which payment of interest in respect of Port Trust securities is to be made and acknowledged ;

(*c*) the circumstances and the manner in which Port Trust securities may be renewed ;

(*d*) the circumstances in which such securities must be renewed before further payment of interest thereon can be claimed ;

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1 Sections 64-A, 64-B, 64-C, 64-D, 64-E, 64-F, 64-G, 64-H, 64-I and 64-J were substituted for sections 63-A and 64-A as substituted for original sections 63 and 64 by section 25 of Madras Act IV of 1923, by section 156 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

(*e*) the form in which securities delivered for renewal, conversion, consolidation or sub-division are to be receipted ;

(*f*) the proof which is to be produced by persons applying for duplicate securities ;

(*g*) the form and manner of publication of the notification mentioned in sub-section (2) of section 64-F and the manner of publication of the list mentioned in sub-section (3) of that section ;

(*h*) the nature and amount of indemnity to be given by a person applying for the payment of interest on Port Trust securities alleged to have been wholly or partly lost, stolen or destroyed, or for the issue of duplicate Port Trust securities ;

(*i*) the conditions subject to which Port Trust securities may be converted, consolidated or sub-divided ;

(*j*) the amounts for which stock certificates may be issued :

(*k*) generally, all matters connected with the grant of duplicate, renewed, converted, consolidated and sub-divided securities ;

(*l*) the fees to be paid in respect of the issue of duplicate securities and of the renewal, conversion, consolidation and sub-division of Port Trust securities ;

(*m*) the fees to be levied in respect of the issue of stock certificates.

(2) The power to make rules under sub-section (1) is subject to the following conditions :—

(*a*) A draft of the rules shall be published in two consecutive issues of the Official Gazette.

(*b*) The same shall have no effect until approved by the Central Government, and until such approval has also been published in the Official Gazette and no rule shall be approved by the Central Government until fourteen days have expired from the date on which the same had been first published in the Official Gazette of the State.

(*c*) The Central Government may at any time by notification cancel any rule published under the provisions of this section.]

Limitation of claims against sinking fund trustees in respect of securities issued by the Board.

[1][64-J. Notwithstanding anything contained in the Indian Limitation Act, 1908 (IX of 1908), no claim shall lie against the trustees of the sinking fund in respect of any security issued by the Board after the lapse of six years from the earliest date on which demand could have been made for the payment of the amount due on such security.]

Place and currency of loans raised.

65. All loans contracted by the Board shall be raised in India, and in Indian currency, unless the [2][Central Government], [3][ ] shall, by a notification in the [4][Official Gazette], otherwise direct.

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1 Sections 64-A, 64-B, 64-C, 64-D, 64-E, 64-F, 64-G, 64-H, 64-I, 64-J were substituted for sections 63-A and 64-A as sub t tuted for or ginal sections 63 and 64 by section 25 of Madras Act IV of 1928, by section 156 of the Port Tru ts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

2 These words were substituted for the words "Local Government" by the Adaptation Order of 1937.

3 The words "with the previous sanction of the Governor-General in Council" were omitted by *ibid.*

4 These words were substituted for the word "Gazette" by *ibid.*

(*Chapter VII.—The Borrowing Powers of the Board.*)

Security for loans.

66. All loans may be raised on the security of—

(*a*) the property now vested, or which may hereafter become vested, in the Board, other than any sums set apart by the Board, as a sinking fund for the purpose of paying off any loan; and

(*b*) the tolls, dues, rates, rents and charges leviable under this Act.

Remedies of the Government in respect of loans made to Board.

67. The [1] [Government] shall have, in respect of loans made by [2] [it] to the Board, or to the Trustees of the Harbour of Madras, the same remedies as [3] [holders of Port Trust securities]; and [4] [it] shall not be deemed to possess any prior or greater rights in respect of such loans than [3] [holders of Port Trust securities].

Power to repay loans before due date.

68. The Board [5] [may, with the previous sanction of the Central Government, apply any sums out of moneys which may come into its hands under the provisions of this Act and], which can be so applied without prejudicing the security of the other [6] [holders of Port Trust securities], in repaying to the [3] [Government] any sum which may remain due to [2] [it] in respect of the principal of any loan although the time fixed for the repayment of the same may not have arrived:

Provided that no such repayment shall be made of any sum less than ten thousand rupees; and that, if such repayment is made, the amount of interest in each succeeding instalment shall be adjusted so as to represent exactly the interest due on the outstanding principal.

Establishment of sinking fund.

69. In the case of loans raised by the Board which are not repayable before the expiration of one year from the date of the loan, the Board shall set apart half-yearly out of its income as a sinking fund a sum sufficient to liquidate the loan within a period which shall not in any case, unless the previous consent of the [7] [Central Government] shall have been obtained, exceed thirty years; but the maximum period shall not in any case exceed sixty years. Provided that a sinking fund need not in the absence of any stipulation to that effect be established in the case of loans taken from the [1] [Government].

Investment of sinking fund.

70. (1) The sums so set apart shall be invested [8] [in public securities or in such other securities as the Central Government may approve in this behalf] and shall be held in trust for the purposes of the Act by two Trustees, one being the Board, and the other a person appointed by the [9] [Central Government].

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1 The word "Crown" was substituted for the words "Secretary of State for India in Council" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

2 This word was substituted for the word "him" by the Adaptation Order of 1937.

3 These words were substituted for the words "debenture-holders" by section 3 of the Madras Port Trust (Amendment) Act, 1929 (Madras Act VII of 1929).

4 This word was substituted for the word "he" by the Adaptation Order of 1937.

5 These words were substituted for the words "may apply any sums" by section 159 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

6 These words were substituted for the words "debenture-holders of the Board" by section 4 of the Madras Port Trust (Amendment) Act, 1929 (Madras Act VII of 1929).

7 These words were substituted for the words "Governor-General in Council" by the Adaptation Order of 1937.

8 These words were substituted for the words "in securities of the Central Government or in Port Trust securities" by section 160 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

9 These words were substituted for the word "Local Government" by the Adaptation Order of 1937.

(2) The Board may apply the whole or any part of the sums accumulated in the sinking fund in or towards the discharge of the moneys for the repayment of which the fund has been established, provided that it pays into the fund in each year, and accumulates until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund, or the part of the sinking fund so applied.

Application of sinking fund.

[1] [**71.** (1)] The sinking fund established for the liquidation of any loan shall be subject to annual examination by the Accountant-General, Madras, who shall ascertain whether the cash and the [2] [current market value] of the securities at the credit of the fund are actually equal to the amount which would have been accumulated, had investments been regularly made, and had the rate of interest as originally estimated been obtained thereon. The Trustees shall pay forthwith into the sinking fund any amount which the Accountant-General may certify to be deficient [3] (unless the Central Government specifically sanctions a gradual readjustment.)

Examination of sinking fund.

[4] [(2) If the cash and the current market value of the securities at the credit of the sinking fund are in excess of the amount which should be at its credit, the Accountant-General shall certify the amount of this excess and the Board may, with the previous sanction of the Central Government,—

(*a*) withdraw the whole or any part of the certified excess, in which case the Trustees in whose names the sinking fund is invested under sub-section (1) of section 70 shall forthwith transfer securities of the requisite current market value, or cash and securities of the requisite current market value, to the Board ; or

(*b*) reduce or discontinue the half-yearly contributions to the sinking fund required under section 69 ; or

(*c*) adopt a combination of these measures.]

72. (1) The debt already incurred to the [5] [Government] shall be deemed, to have borne interest at the rate of four per cent per annum from, and after the first day of April 1902 and shall in future bear interest at the said rate, and any payments of interest on such debt at the said rate made after the first day of April 1902 shall be deemed to have been full and sufficient payments of interest.

Interest on outstanding debt.

(2) The outstanding balance of the debt already incurred to the [5] [Government] shall be repaid upon such terms as to the time of repayment, and otherwise, as the [6] [Central Government] may approve.

Repayment of outstanding debt.

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1 This section was re-numbered as sub-section (1) of section 71 by section 161 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

2 These words were substituted for the words " Current value " by section 161 (*a*) (i), *ibid.*

3 These words were added by section 161 (*a*) (ii), *ibid.*

4 This sub-section was inserted by section 161 (*b*), *ibid.*

5 The word " Crown " was substituted for the words " Secretary of State for India in Council " by the Adaptation Order of 1937 and the word " Government " was substituted for " Crown " by the Adaptation Order of 1950.

6 These words were substituted for the words " Governor-General in Council " by the Adaptation Order of 1937.

(Chapter VII.—The Borrowing Powers of the Board.
Chapter VIII.—Expenditure.)

Power of Board to borrow by means of temporary overdraft or otherwise.

[1] [**72-A.** Notwithstanding anything contained in this Act, the Board may borrow moneys by means of temporary overdraft or otherwise by pledging the securities held by the Board in its reserve funds or on the security of the fixed deposits of the Board in its banks :

Provided that such temporary overdrafts or other loans—

(*a*) shall not at any time have a longer currency than six months ; and

(*b*) shall not be taken without the previous sanction of the Central Government, if at any time in any year the amount of such overdrafts or other loans exceeds ten lakhs of rupees :

Provided further that all moneys so borrowed by temporary overdraft or otherwise shall be expended for the purposes of this Act.]

Power to raise loan on short-term bills.

[2] [**73.** Nothing contained in this Act shall be deemed to affect the power of the Board to raise loans under the Local Authorities Loans Act, 1914.] Cent Act 1914

CHAPTER VIII.

EXPENDITURE.

Objects on which Board may spend money.

74. Subject to the provisions of [3][sub-section (5-*b*) of section 36 of the Indian Ports Act, 1908 (XV of 1908)] and to any specific appropriation by the legislature, the rents, income, and other proceeds of any property vested in the Board under this Act and acquired by the Board thereunder, and all moneys acquired by the Board under or by virtue of this Act shall be applied by the Board as follows and in the following order, namely :—

(1) the salaries, fees, allowances, pensions, gratuities, compassionate allowances, or other moneys due to the Chairman, [4][employees] appointed under this Act and the contributions, if any authorized to be made to any provident fund established for the benefit of the said [4][employees] ;

(2) the cost of repairs to and the maintenance of the property vested in the Board, and all charges upon the same and all working expenses ;

(3) the payment of any interest which is from time to time owing by the Board ;

(4) payments to sinking funds and the repayment of the principal of loans as they fall due ;

[5][(5) payments to reserve funds] ;

[6][(6)] the cost or portion of the cost of any new work, plant, vessel, or appliance which the Board may determine to charge to revenue ;

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1 This section was inserted by section 162 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

2 This section was substituted by section 26 of Madras Act IV of 1923.

3 These words, brackets, figures and letter were substituted for the word and figures "section 94" by section 163 (*a*) of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

4 These words were substituted for the words "Officers and servants" by section 143, *ibid.*

5 Clause (5) was inserted by section 6 of the Madras Port Trust (Amendment) Act, 1929 (Madras Act VII of 1929).

6 Original clauses (5), (6) and (7) were renumbered as (6), (7) and (8) by *ibid.*

[1][(6*a*) the payment of such sums as may from time to time be agreed upon by the Central Government and the State Government or by the Board and the State Government as a reasonable contribution on account of expenses in connexion with the watch and ward functions of the harbour police and the police employed for guarding the docks, ware-houses and other property of the Board ;

(6*b*) any other charge which may on the application of the Board be specially sanctioned by the Central Government or for which the Board may be legally liable ;]

[2][(7)] the remuneration of the trustees ; and

[2][(8)] generally for the purposes of this Act.

Establishment of reserve fund.

[3][**74-A.** (1) The Board may, out of its surplus income, set apart, from time to time, such sums as it thinks fit as a reserve fund or funds, for providing for all or any of the following cases, namely :—

(*a*) any temporary decrease of income ; or

(*b*) any temporary increase of expenditure ; or

(*c*) replacement expenditure ; or

(*d*) expenditure to make good loss or damage from fire, cyclone, shipwreck or other accident ; or

(*e*) any other emergency arising in the conduct of its work under this Act :

Provided that the sums set apart annually in respect of, and the aggregate, at any time of, any such reserve fund shall not exceed such amounts as may from time to time be fixed in that behalf by the [4][Central Government].

(2) Any such reserve fund or funds shall be invested [5][in public securities or in such other securities as the Central Government may approve in this behalf.]

Board may invest in its own securities.

[6][**74-B.** (1) For the purposes of any investment which the Board is authorized to make by this Act, it shall be lawful for the Board to reserve and set apart any securities to be issued by it on account of any loan to which the consent of the Central Government has been given, provided that the intention to so reserve and set apart such securities shall have been notified as a condition to the issue of the loan.

(2) The issue of any such securities direct to, and in the name of 'The Trustees of the Port of Madras' shall not operate to extinguish or cancel such securities, but every security so issued shall be valid in all respects as if issued to, and in the name of, any other person.

(3) The purchase by the Board of the transfer, assignment or indorsement to the Trustees of the sinking fund or the Board, of any security issued by the Board, shall not operate to extinguish or cancel any such security, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or indorsed to, any other person.

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1 Clauses (6*a*) and (6*b*) were inserted by section 163 (*b*) of the Port Trusts and Ports (Amendment) Act 1951 (Central Act XXXV of 1951).

2 Original clauses (5), (6) and (7) were renumbered as (6), (7) and (8) by section 6 of Madras Act VII of 1929.

3 Section 74-A was inserted by section 7, *ibid.*

4 These words were substituted for the words "Local Government" by the Adaptation Order of 1937.

5 These words were substituted for the words "in the securities of the Central Government or in Port Trust securities" by section 164 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

6 Sections 74 B and 74 C were inserted by section 165, *ibid.*

(4) All securities of the Board heretofore purchased by, issued, transferred or assigned to, or indorsed into the names of the Trustees of the Port of Madras, or any person on their behalf, and all securities heretofore issued by way of renewal, consolidation or sub-division of any such securities, shall be and shall be deemed to have always been valid and negotiable in all respects and in the same manner and to the same extent as if held by, or issued, transferred, assigned or indorsed to any other person.

Power to transfer moneys from the general account to the pilotage account and *vice versa*.

74-C. The Board may, with the previous sanction of the Central Government, apply any sum out of the moneys credited to the general account of the Port towards meeting deficits, if any, in the pilotage account of the Port maintained under section 36 of the Indian Ports Act, 1908 (XV of 1908), or transfer the whole or any part of any surplus funds in such pilotage account to the general account of the Port.]

Prior sanction of Central Government to charge expenditure to Capital.

[1] [**75.** (1)] No expenditure shall be charged by the Board to capital without the previous sanction of the [2] [Central Government.]

[1] [(2) Nothing in sub-section (1) shall require further sanction of the Central Government in the case where the actual expenditure incurred as a charge to capital exceeds the expenditure sanctioned in this behalf by the Central Government unless the excess is more than ten per cent of the expenditure so sanctioned.]

Works requiring sanction of Board or Central Government.

76. No new work or appliance the estimated cost of which exceeds [3] [ten thousand rupees], shall be commenced or provided by the Board, nor shall any contract be entered into by the Board in respect of any such new work or appliance until a plan and estimate of such work has been submitted to, and approved by the Board; and, in case the estimated cost of any such new work or appliance shall exceed [4] [two lakhs of rupees], it shall not be commenced or provided until such plan and estimate have been sanctioned by the [3] [Central Government].

[5] [Provided that where the estimated cost of any new work or appliance has been sanctioned by the Central Government, no expenditure which exceeds by more than ten per cent the estimated cost so sanctioned shall be incurred by the Board without the previous sanction of the Central Government.]

Powers of Chairman as to execution of works.

[6] [**76-A.** Notwithstanding anything contained in section 76, the Chairman may direct the execution of any work the cost of which does not exceed five thousand rupees, and may enter into contracts for the execution of such works, and in every such case the Chairman shall make a report to the Board at its next meeting of any such directions given or contracts entered into by him.]

[7] [**77**] and [7] [**78**].

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1 Section 75 was renumbered as sub-section (1) of that section and sub-section (2) was added by section 166 of the Port Trusts and Ports (Amendment) Act, 1951, (Central Act XXXV of 1951).

2 These words were substituted for the words "Local Government" by the Adaptation Order of 1937

3 These words were substituted for the words "two thousand rupees" by section 167 (*a*), *ibid.*

4 These words were substituted for the words "fifty thousand rupees" by section 167 (*b*) of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951) as substituted for the words "twenty-five thousand rupees" by section 15 of the Madras Port Trust (Amendment) Act, 1915 (Madras Act II of 1915).

5 This proviso was inserted by section 167 (*c*) of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

6 Section 76 was inserted by section 168, *ibid.*

7 Sections 77 and 78 were repealed by section 169, *ibid.*

(Chapter IX.—Accounts, Estimates and Contracts.)

CHAPTER IX.

ACCOUNTS, ESTIMATES AND CONTRACTS.

Audit and examination of accounts.

[1][79.] The accounts of the receipts and expenditure of the Board shall, once in every year, be laid before the [2][Central Government] and shall be audited and examined [3][by the Comptroller and Auditor-General of India at such times and in such manner as may be determined by him]. For the purposes of any such audit, audit, and examination of accounts, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers and all other documents and papers which they deem necessary; and many require any person holding or accountable for any such books, deeds, contracts, vouchers, documents, or papers to appear before them at any such audit and examination or adjonrnment thereof, and to answer all questions which may be put to him with respect to the same, or to prepare and submit any further statement which such auditors may consider necessary in explanation thereof.

Power of auditors to call for books, etc.

Publication of audit report.

[1][80.] Within fourteen days after the audit and examination have been completed, the auditors shall report upon the accounts audited and examined, and shall forward copies of their report to the [2][Central Government] and to the Board. The Board shall cause the report and an abstract of the accounts to be published in the [4][Official Gazette] [5][* * * *].

Board to remedy defects and irregularities pointed out in the audit report and Central Government to pass final orders.

[6][80-A. (1) The Board shall forthwith take into consideration any defects or irregularities that may be pointed out by the auditors in their report and shall pass such orders thereon as the Board may think fit and shall also send a report of the action taken by the Board to the Central Government.

(2) If there is a difference of opinion between the Board and the auditors on any point included in the audit report and the Board feel unable to accept the recommendation, if any, made by the auditors on such point, the matter shall forthwith be referred to the Central Government who shall pass final orders thereon and the Board shall be bound to give effect to such orders.]

Auditors' remuneration.

[1][81.] [7][The Comptroller and Auditor-General of India] shall be paid by the Board such remuneration as the [2][Central Government] shall determine.

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1 Present sections 79 to 92 were sections 80 to 93, respectively, in the original Act—vide section 16 of Madras Act II of 1915.

2 These words were substituted for the words "Local Government" by the Adaptation Order of 1937.

3 These words were substituted for the words "by such auditors as shall, from time to time, be appointed by the Central Government" by section 170 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

4 These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

5 The words "and in some one or more of the daily newspapers published in Madras" which occurred at the end of this section were omitted by section 17 of Madras Act II of 1915.

6 This section was inserted by section 171 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

7 These words were substituted for the word "auditors" by section 172, *ibid.*

(Chapter IX.—Accounts, Estimates and Contracts.)

Submission to Board of annual estimate of income and expenditure.

[1][82.] The Chairman shall, at a special meeting to be held on or before the twentieth day of January in each year, lay before the Board an estimate of the income and expenditure of the Board for the financial year then next ensuing. Every such estimate shall be [2][in such detail and form] as the [3][Central Government] shall direct.

Circulation of estimate to Trustees.

[1][83.] Such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each trustee not less than ten clear days [4][* * * *] prior to the day appointed for the special meeting before which the estimate is to be laid under section 82.

Revision and passing of estimate.

[1][84.] It shall be in the discretion of the Board, at such meeting, to pass or to reject the estimate, or to modify or alter it, and to pass it as so modified or altered.

Approval of estimate by Central Government.

[1][85.] (1) Every such estimate, when so passed by the Board, shall be submitted to the [3][Central Government] not later than the tenth day of February; and the [3][Central Government] may either approve the estimate, or may return it with remarks and may call for such additional information as they may deem necessary; and the Board shall forthwith proceed to reconsider the estimate with reference to such remarks, and shall furnish such additional information as the [3][Central Government] may call for and shall, if necessary, modify or alter the estimate and shall re-submit it to the [3][Central Government].

(2) The [3][Central Government] shall then pass, reject or modify all or any of the items entered in the estimate or add thereto any items. Provided that no such modification, rejection or addition be inconsistent with the provisions of this Act or involve the raising of a loan.

Preparation of supplemental estimates.

[1][86.] The Board may, in the course of any year for which an estimate has been approved by the [3][Central Government], cause one or more supplemental estimates for the residue of such year to be prepared and laid before the Board; and thereupon such proceedings shall be had as by sections 83, 84[1] and 85[1] are directed to be had with respect to the estimate therein mentioned. Every such supplemental estimate shall be considered by the Board and submitted to the [3][Central Government] in the same manner as if it were an original annual estimate.

Re-appropriation of amounts in estimate.

[5][86-A. Subject to any directions which the Central Government may give in this behalf, any sum of money, or part thereof, of which the expenditure has been authorized in an estimate for the time being in force, finally approved by the Central Government and which has not been so spent, may at any time be re-appropriated by the Board to meet any excess in any other expenditure authorized in the said estimate:

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1 Present sections 79 to 92 were sections 80 to 93, respectively, in the original Act —vide section 16 of the Madras Act II of 1915.

2 These words were substituted for the words "in such form" by section 173 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

3 These words were substituted for the words "Local Government" by the Adaptation Order of 1937.

4 The words "at least" were omitted by section 10 of Madras Act II of 1919.

5 Sections 86A, 86B and 86C were inserted by section 174 of the Port Trusts and Ports (Amendment Act 1951 (Central Act XXXV of 1951).

(Chapter IX.—Accounts, Estimates and Contracts.)

Provided that no such re-appropriation shall be made from one major head of expenditure to another such head without the previous sanction of the Central Government.

Submission of accounts to the Central Government.

86-B. (1) The Board shall annually, or oftener if directed by the Central Government so to do, submit statements of its receipts and disbursements to the Central Government in such form and at such time as that Government may direct.

(2) A copy of all such statements shall be open to the inspection of the public at the office of the Board during office hours on payment of such fee for each inspection as may from time to time be fixed by the Board.

No expenditure above five thousand rupees to be incurred unless sanctioned in estimate.

86-C. (1) Subject to the provisions of section 86A, no sum exceeding five thousand rupees shall, save in cases of pressing emergency, be expended by, or on behalf of, the Board unless such sum is included in some estimate at the time in force which has been finally approved by the Central Government.

(2) If any sum exceeding five thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Chairman to the Central Government together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.]

Power to enter into contracts.

[1][**87.**] The Board may enter into contracts for carrying into effect the purposes of this Act :

Provided always that no contract, under or by virtue of which a sum greater than [two lakhs of rupees] may in any event be payable by the Board, shall be valid without the assent of the [3][Central Government].

Power of Chairman as to contracts.

[4][**88.** The Chairman may, on behalf of the Board, enter into any contract or agreement whereof the value or amount shall not exceed five thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; but every other contract and agreement on behalf of the Board shall be in writing, and shall be signed by the Chairman and by two other trustees and shall be sealed with the common seal of the Board. No contract or agreement not executed as is in this section provided shall be binding on the Board.]

Power to compound or compromise claims.

[1][**89.**] The Board may compound or compromise any claim or demand arising out of any contract entered into by the Board or any action or suit instituted by or against the Board :

[5][Provided that no settlement shall be made under this section without the previous sanction of the Central Government if such settlement involves the payment by the Board of a sum exceeding twenty-five thousand rupees.]

Writing off of losses.

[6][**89-A** (1) Subject to such conditions as may be specified by the Central Government, where the Board is of opinion that any amount due to, or any loss, whether of money or of property, incurred by the Board is irrecoverable, the Board may,

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1 Present sections 79 to 92 were sections 80 to 93, respectively, in the original Act—vide section 16 of Madras Act II of 1915.

2 These words were substituted for the words "fifty thousand rupees" by section 175 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

3 These words were substituted for the words "Local Government" by the Adaptation Order of 1937.

4 This section was substituted by section 176 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951) for section 88 as substituted for original section by section 27 of Madras Act IV of 1923).

5 This proviso was added by section 177 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

6 This section was inserted by section 178, *ibid*.

with the previous approval of the Central Government, sanction the writing off finally of the said amount or loss :

Provided that no such approval of the Central Government shall be necessary where such irrecoverable amount or loss does not exceed, in any individual case, two thousand and five hundred rupees or, in the aggregate in any one year, fifty thousand rupees.

(2) Notwithstanding anything contained in sub-section (1), where the Chairman is of opinion that any amount due to, or any loss, whether of money or of property incurred by, the Board is irrecoverable, the Chairman may sanction the writing off finally of such amount or loss, provided that such amount or loss does not exceed, in any individual case, five hundred rupees or, in the aggregate in any one year, ten thousand rupees ; and in every such case the Chairman shall make a report to the Board giving reasons for such sanction.]

CHAPTER X.

PILOTS AND HARBOUR-MASTERS.

Pilotage fees.

[1][**90.**] The Board shall have the right and privilege of maintaining pilots or harbour-masters for the navigation of vessels at the port. [2][* * * .]

Appointment of pilots.

[1][**91.**] No person shall be appointed to be a pilot or harbour-master by the Board who is not for the time being authorized by the [3][Central Government] under the provisions of [4][the Indian Ports Act, 1908] to pilot vessels.

Cen Act 190

Rules and regulations regarding pilots.

[1][**92.**] Notwithstanding anything contained in sections 27, 28 and 29, the Board may make [5][special rules and regulations,]—

(*a*) for fixing and regulating the wages and allowances for pilotage to be received by pilots or harbour-masters, and

(*b*) for regulating the behaviour and conduct of pilots or harbour-masters,

and [6][may enforce] the observance of such rules and regulations by the imposition of pecuniary penalties not exceeding two hundred rupees for every breach thereof, or by suspension or deprivation of appointment, or otherwise as to the Board may appear expedient :

Provided that such rules and regulations shall first have been approved by the [3][Central Government], and published in the [7][Official Gazette].

[8][**93**] and [8][**94**].

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1 Present sections 79 to 92 were sections 80 to 93, respectively, in the original Act—vide section 16 of Madras Act II of 1915.

2 The words "and all fees for pilotage shall be paid to the Board" were omitted by section 179 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

3 These words were substituted for the words "Local Government" by the Adaptation Order of 1937.

4 The words and figures "the Indian Ports Act, 1908" were substituted for the words and figures "the Indian Ports Act, 1889," by section 32 of Madras Act IV of 1923.

5 These words were substituted for the words "such special rules and regulations as it shall think fit" by section 28 of Madras Act IV of 1923.

6 The words "may enforce" were substituted for the words "shall enforce" by *ibid.*

7 These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

7 Sections 93 and 94 were repealed by section 180 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

CHAPTER XI.

BY-LAWS.

Power to frame by-laws.

95. The Board may, from time to time, make by-laws not inconsistent with the provisions of this Act or of [1][the Indian Ports Act, 1908],—

(1) for the guidance of persons employed by the Board under this Act;

(2) for the safe and convenient use of the docks, wharves, quays, jetties, sheds, warehouses, railways, tramways and other works constructed by the Board or vested in the Board under this Act;

(3) for the use of the public landing places constructed by or vested in the Board;

(4) for the reception, porterage, storage and removal of goods brought within the premises of the Board and for the exclusive conduct of these operations by the Board or persons employed by the Board;

(5) for keeping clean the harbour and basins and the works of the Boards, and for preventing filth or rubbish being thrown therein or thereon;

(6) for the mode of the payment of the rates leviable under this Act;

(7) for regulating, declaring and defining the docks, wharves, quays, jetties, stages, and piers vested in the Board on which goods shall be landed from vessels and shipped on board vessels;

(8) for regulating the lighterage of cargo between ships or between ships and shore or between shore and ships; [*].

[2][(9) for the exclusion from its premises of disorderly or other undesirable persons and of trespassers; and]

[2][(10)] generally for carrying out the purposes of this Act.

Approval and publication of bye-laws.

[3][**96.** (1) No bye-law or alteration or revocation of a bye-law shall have effect until the same has been approved by the Central Government.

(2) No bye-law or alteration or revocation of a bye-law shall be approved by the Central Government until the same has been published for two weeks successively in the Official Gazette and until fourteen days have expired from the date on which the same had been first published in that Gazette.]

Penalties for infringement of bye-laws.

97. The Board may in such bye-law prescribe such penalties as it shall deem fit for the infringement of the same: provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after the first during which such infringement continues.

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1 The words and figures "the Indian Ports Act, 1908" were substituted for the words and figures "the Indian Ports Act, 1889," by section 32 of Madras Act IV of 1923.

2 The word "and" was omitted and clause (9) was inserted by section 18 of Madras Act II of 1915. Old clause (9) was renumbered as (10) by the same section.

3 This section was substituted for original section 96 by section 181 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

(*Chapter XI.—Bye-laws. Chapter XII.—Penalties.*)

Exhibition of bye-laws and scales of rates and charges.

98. The Board shall cause the said bye-laws and the scales of rates leviable by the Board [1][together with a statement of the conditions under which it is prepared to render services] [2][or to provide for services to be rendered] [3][ ] to be hung up at the several wharves, docks, and piers and other convenient places on the premises of the Board.

Cancellation of bye-laws.

99. The [4][Central Government] may, by an order published in the [5][Official Gazette] at any time, annul any such bye-law.

CHAPTER XII.

PENALTIES.

Penalty for being interested in contracts with Board.

100. Any person who being a Trustee, or an [6][employee] of the Board, shall acquire, directly or indirectly, any share, or interest in any contract or employment with, by, or on behalf of, the Board, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code: Centi XLN 1860.

Provided that nothing in this section shall apply to any person who under [7][clause (*e*) of sub-section (1) of section 10] is to be deemed not to have any share or interest in any contract or employment.

Persons employed under this Act to be public servants for certain purposes.

[8][101. Every person employed under this Act shall, for the purposes of sections 161 to 171 (both inclusive), 184, 185 and 409 of the Indian Penal Code (Act XLV of 1860) and for the purposes of the Prevention of Corruption Act, 1947 (II of 1947), be deemed to be a public servant within the meaning of section 21 of the said Code.]

Penalty for refusing or neglecting to appear before an auditor of accounts, etc.

102. Any person who, when duly required so to do by any auditor of accounts under section [9][79] shall refuse or neglect to appear before such auditor or to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to answer any question or prepare and submit any statement, shall be punishable for every such neglect or refusal with fine which may extend to one hundred rupees.

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1 These words were inserted by section 19 of Madras Act II of 1915.
2 These words were inserted by section 30 of Madras Act IV of 1923.
3 The words " to be printed in the English, Telugu, Tamil and Hindustani languages and " were omitted by *ibid.*
4 These words were substituted for the words " Local Government " by the Adaptation Order of 1937.
5 These words were substituted for the words " *Fort St. George Gazette* " by *ibid.*
6 These words were substituted for the words " officer or servant " by section 143 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).
7 These words and figures were substituted for the words and figures " the proviso to sub-section (1) of section 7 " by section 32 of Madras Act IV of 1923.
8 This section was substituted for original section 101 by section 182 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).
9 The reference to original section 80 was altered into a reference to section 79 by section 16 of Madras Act II of 1915.

(*Chapter XII.—Penalties.*)

Penalty for depositing filth, etc., on the wharves or foreshore.

103. Any person who without licence of competent authority wilfully deposits, or permits his servants to deposit any dust, dirt, dung, ashes, refuse or filth of any kind, or broken glass, earthenware, or rubbish, in or upon any wharf, dock or pier in the possession of the Board, or in or upon any part of the foreshore of the port shall be punishable with fine which may extend to ten rupees for each offence.

Penalty for setting up any erection below high watermark in the port.

104. (1) Any person, other than the Board or the Conservator of the Port, who shall, without first obtaining the written consent of the [1] [Central Government] to his so doing, make, set up or fix, within the limits of the port, any wharf, quay, pier, mooring or other erection whatsoever, shall be punishable with fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which he shall permit such wharf, quay, pier, mooring or other erection, to remain after notice to remove the same has been given to him.

(2) Any such wharf, quay, pier, mooring or other erection within the limits of the port may be removed by the Board and the person who made, set up, or fixed the same, shall be liable to pay all expenses which may be incurred by the Board in the removal thereof.

Penalty for understating quantity or weight of goods, or incorrectly describing them.

105. If it be found when goods are imported at, or exported from, any wharf, dock or pier in the possession of the Board, that the [2] [weight, quantity or description of such goods has been understated or incorrectly given] in any document presented to any [3] [employee] of the Board for the purpose of enabling him to determine the rates payable in respect of the said goods, the owner of such goods shall be liable to pay to the Board such sum not exceeding twice the proper rates on the [4] [whole weight or quantity of the consignment of goods so understated or incorrectly described] as may be determined by the Board, [5] [or where any employee of the Board has, subject to such conditions as may be laid down by the Board, been generally or specially authorized by the Board in this behalf by such employee, and the said sum shall on application by or on behalf of the Board,] be recoverable under a Presidency Magistrate's warrant as if it were a fine inflicted by such Magistrate.

Penalty for evading tolls, etc.

106. Any person who removes or attempts to remove, or abets the removal of, any vessel or goods with the intention of evading payment of the rates lawfully due in respect thereof to the Board, shall be punishable with fine which may extend to fifty rupees.

Recovery of value of damage to property of Board.

107. If through the negligence of any person having the guidance or command of any vessel, or of any of the mariners or persons employed on such vessel, damage shall be caused to any wharf, dock, pier or other work in the possession of the Board, the amount of such damage shall, on the application

1 These words were substituted for the wrods "Local Government" by the Adaptation Order of 1937.
2 These words were substituted for the words "weight or quantity of such goods has been understated" by section 20 of Madras Act II of 1915.
3 This word was substituted for the word "officer" by section 143 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).
4 These words were substituted for the words "weight or quantity of goods so understated" by section 20 of Madras Act II of 1915.
5 These words were substituted for the words "and the said sum shall, on the application of the Board" by section 183, *ibid.*

of the Board, be recoverable, together with the cost of such recovery, by distress and sale, under a Presidency Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores belonging to such vessel : Provided that no such warrant shall issue until the master of such vessel has been duly summoned to appear, or, if he appears, until he has been heard ; and provided also that no such warrant shall issue if the vessel was at the time under the orders of a duly authorized [1] (employee) of the Board or [2] [employee] in the pilot service of the port unless the damage caused was in no way attributable to the order, act or improper omission of such [3] (employee).

Cognizance of offences against Act or bye-laws.

108. Except as is otherwise provided, all offences against this Act or against any bye-law published under section 96 shall be cognizable by a Presidency Magistrate.

CHAPTER XIII.

MISCELLANEOUS.

Saving of power of Chief Officer of Customs under existing law.

109. Nothing in this Act shall affect any power vested in the Chief Officer of Customs under any law for the time being in force.

[4][**109-A.** The provisions of sections 36, 39, 42, 43, 60, 61, 62, 95, 106, 107 and 111 shall apply in relation to all aircraft making use of the Port while on water as they apply in relation to vessels.]

Application of certain provisions of the Act to aircraft.

Notice and limitation of suits or other proceedings.

110. No suit or other proceeding shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act without giving to such person one month's previous notice in writing of the intended suit or other proceeding, and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceeding.

Saving of liability of Board for acts of officers or servants.

111. The Board shall not be liable for any act or default of any officer or servant appointed under this Act, or under [5][the Indian Ports Act, 1908], if the Board be appointed by Government, under the Indian Ports Act, to be Conservator of the Port, or of any person acting under the authority or direction of any such [1] [employee] unless such act or default is done or made under the direction of the Board ; Central XV of 1908.

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to the Board ;

nor shall the Board, or any of the said [6] [employees], be liable in damages for any act *bona fide* done, or ordered to be done by them in pursuance of this Act.

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1 This word was substituted for the word "servant" by section 143 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

2 This word was substituted for the word "officer" by *ibid.*

3 This word was substituted for the words "servant or officer" by *ibid.*

4 Section 109A was inserted by section 184, *ibid.*

5 The words and figures "the Indian Ports Act, 1908" were substituted for the words and figures "the Indian Ports Act, 1889," by section 32 of Madras Act IV of 1923.

6 This word was substituted for the words "officers or servants" by section 143 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

(Chapter XIII.—Miscellaneous.)

[1][111-A. (1) Notwithstanding anything contained in any other law, if the Board in exercise of the powers conferred on it by regulations made under this Act cancel the allotment of any premises made to any employee of the Board, the Board may, by notice in writing, order such allottee or any other person who may be in occupation of the whole or any part of the premises to vacate them and deliver the same to the Board or a person appointed by the Board in that behalf within such period as may be specified in the notice.

Power to evict certain persons from the promises of the Board.

Explanation.—For the purposes of this section, " premises " means any building or part of a building and includes—

(i) the gardens, grounds and out-houses, if any, appertaining to such building or part of a building ;

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof ; and

(iii) any furniture, books or other things belonging to the Board and found in such building or part of a building.

(2) If any allottee or other person refuses or fails to comply with an order made under sub-section (1), any presidency-magistrate or magistrate of the first class may, on application made by or on behalf of the Board, order any police officer, with proper assistance, to enter into the premises and evict any person from, and take possession of, the premises and to deliver the same to the Board or a person appointed by the Board in that behalf and the police officer may, for that purpose, use such force as may be necessary.

(3) Any such notice as is referred to in sub-section (1) may be served—

(*a*) by delivering or tendering it to the allottee or any other person who may be in occupation of the whole or any part of the premises,

(*b*) if it cannot be so delivered or tendered, by affixing it on the outer door or some other conspicuous part of the premises, or

(*c*) by registered post.]

[1][**111-B.** As soon as may be after the first day of April in every year and not later than such date as may be fixed in this behalf by the Central Government, the Board shall submit to the Central Government a detailed report of the administration of the Port during the preceding year ending on the thirty-first day of March in such form as the Central Government may direct.]

Annual administration report of the Port.

112. The Chairman shall supply to the [2][Central Government] such returns and information [3][relating to the work of the Board under this Act as may, from time to time, be called for by the Central Government].

Submission of returns and information to Central Government.

[4][**113.** (1) If, at any time, the Central Government is of opinion—

Power to supersede the Board.

(*a*) that on account of a grave emergency, the Board are unable to perform the duties imposed on them by or under the provisions of this Act or of any other law, or

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1 Sections 111-A and 111-B were inserted by section 185 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

2 These words were substituted for the words " Local Government " by the Adaptation Order of 1937.

3 These words were substituted for the words " as may be called for by the Central Government for the purposes of this Act " by section 186 of the Port Trusts and Ports (Amendment) Act, 1951 (Central Act XXXV of 1951).

4 This section was substituted for original section 113 by section 187, *ibid.*

(*b*) that the Board have persistently made default in the performance of the duties imposed upon them by or under the provisions of this Act or of any other law and as a result of such default, the financial position of the Board or the administration of the Port has greatly deteriorated, the Central Government may, by notification in the Official Gazette, supersede the Board for such period, not exceeding six months at a time, as may be specified in the notification :

Provided that before issuing a notification under this sub-section for reasons mentioned in clause (*b*), the Central Government shall give a reasonable time of not less than three months to the Board to show cause why the Board should not be superseded and shall consider the explanations and objections, if any, of the Board.

(2) Upon the publication of a notification under sub-section (1) superseding the Board, the following consequences shall ensue :—

(*a*) all the Trustees shall, as from the date of supersession, vacate their offices as such Trustees ;

(*b*) all the powers and duties which may, by or under the provisions of this Act or of any other law, be exercised or performed by or on behalf of the Board, shall until the Board are reconstituted under clause (*b*) or clause (*c*) of sub-section (3) be exercised and performed by such person or persons as the Central Government may direct ;

(*c*) all property vested in the Board shall, until the Board are reconstituted under clause (*b*) or clause (*c*) of sub-section (3), vest in the Central Government.

(3). On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may—

(*a*) extend the period of supersession for such further term, not exceeding six months, as it may consider necessary, or

(*b*) reconstitute the Board by fresh appointment and fresh election, and in such case, any persons who vacated their offices under clause (*a*) of sub-section (2) shall not be deemed disqualified for appointment or election, as the case may be, or

(*c*) reconstitute the Board by appointment only for such period as it may consider necessary and in such a case, the persons who vacated their offices under clause (*a*) of sub-section (2) shall not be deemed disqualified for such appointment merely because they were Trustees when the Board was superseded :

Provided that the Central Government may at any time before the expiration of the period of supersession, whether as originally specified under sub-section (1) or as extended under this sub-section, take action under clause (*b*) or clause (*c*) of this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before Parliament at the earliest possible opportunity.]

(Schedule I.—Enactments repealed. Schedule II.—The properties vested in the Board.)

SCHEDULE I.

(*See* section 3.)

ENACTMENTS REPEALED.

ACTS PASSED BY THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

Year.	Number.	Short title or subject.
1886	II	The Madras Harbour Trust Act, 1885.
1886	III	The Madras Harbour Trust (Amendment) Act, 1886.
1892	I	The Madras Harbour Trust (Amendment) Act, 1892.
1898	II	The Madras Harbour Trust (Amendment) Act, 1898.
1900	III	The Madras Harbour Trust (Amendment) Act, 1900.

SCHEDULE II.

(*See* Section 3.)

THE PROPERTIES VESTED IN THE BOARD.

Part I.

All that piece or parcel of land with the buildings, structures, and appliances thereon and all that sea space occupied by and enclosed in the north and south groynes of the existing Harbour at Madras together with the moorings therein laid down, which said land and space together from the Madras Harbour and are bounded—

On the north by land bearing resurvey No. 1 of Tondiarpet division and by the sea, the line of such boundary running from a pillar erected on the north-west corner of the said premises, being situate one hundred and ninety-five feet from the north-west corner of the Clive battery and bearing twelve degrees twenty-five minutes east of north from the said corner, for ninety yards to another pillar erected at the root of the said north groyne and thence along the sea edge of the rubble base of the said north groyne to the eastern boundary ;

on the east by the sea, the line of such boundary following the sea edge of the rubble base of the said north groyne from north to south, thence across in a direct line to the sea edge of the rubble base of the said south groyne and so on along such sea edge to the southern boundary ;

on the south by the sea, by the foreshore and other land belonging to the [1] [Government], by land in the occupation of the South Indian Railway Company (Limited) and by land vested in the Corporation of Madras, the line of such southern boundary following the sea edge of the rubble base of the said south groyne from the eastern boundary up to the root of such groyne and thence a curved line running on a radius of about one thousand feet up to an iron post sunk below the level of the street at the junction of the southern and the western boundaries being situate eighty-seven feet from the north-eastern corner of the building now occupied by the Chartered Mercantile Bank and one hundred and thirteen feet nine inches from the south-east corner of that building ; and

on the west by land vested in the Corporation of Madras, the line of such boundary running southwards from the north-west pillar referred to in the northern boundary to the north-west angle of the Clive battery, thence along the western side of such battery and for ten feet along the south side of same, thence for a distance of one hundred and fifty-three feet to a pillar marking the joint Municipal and Harbour boundary, thence southwards as far as the iron post referred to in the southern boundary along a line coincident with the Municipal boundary of the First Line Beach Road.

Excepting always from the said lands and premises the lands and buildings vested in the [2] [Government] included within the said boundaries and known respectively as the Clive battery, comprising resurvey numbers 3823, 3824 and 3825, the office and premises of the Deputy Commissioner of Police and the Bonded Warehouse.

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1 This word was substituted for the words "Secretary of State" by the Adaptation (Amendment) Order of 1950.

2 This word was substituted for the words "said Secretary of State" by *ibid.*

(Schedule II.—The properties vested in the Board.)

PART II.

All that piece or parcel of land situate at Rayapuram in the City of Madras together with the buildings and erections thereon and known as Carlton House bounded—

On the north side thereof by north side Mada Church Square Road and by a continuation of the revetment constructed by the Harbour Trust Board ;

on the east by the sea edge of the said revetment ;

on the west by east side Mada Church Road ; and

on the south by portion of the said revetment, the premises belonging to Messrs' Arbuthnot & Co., and Tandavamurti Chetti Street.

PART III.

All that piece or parcel of land situate in Rayapuram aforesaid together with the buildings and erections thereon and bounded—

On the north by Kalmandapam Road and a portion of the said revetment ;

on the east by the sea edge of the said revetment ;

on the west by east side Mada Church Road and resurvey No. 348 ; and

on the south by a portion of the said revetment by Thiruvengada Naick lane and by resurvey No. 348.

PART IV.

All that piece or parcel of land situate in Rayapuram aforesaid together with the buildings and erections thereon and bounded—

On the north by a pillar erected on the eastern boundary of Ghaus Mohideen Pettah Road placed at one thousand one hundred and forty-seven yards north of the junction of such road with Kalmandapam Road and by a line running due east and west through such pillar to the sea edge of the said revetment ;

on the east by the sea edge of the said revetment to a pillar erected at the western corner of Cassimode bay, thence across the bay by a line running due east and west to the sea-edge of the revetment and thence along such a sea edge to the southern boundary ;

on the west by Ghaus Mohideen Pettah Road ; and

on the south bay the Kalmandapam Road and the line thereof produced to meet the eastern boundar.

Excepting always the continuation of Flagstaff street passing through the said land and bearing resurvey No. 3310.

SCHEDULE III.

[Repealed by section 31 of Madras Act IV of 1923.]

MADRAS ACT No. III OF 1905.[1]

[THE MADRAS LAND ENCROACHMENT ACT, 1905.]

[*6th June* 1905.]

An Act to provide measures for checking unauthorized occupation of lands which are [2][the property of Government,].

Preamble.

WHEREAS it has been the practice to check the unauthorized occupation of lands which are [2][the property of Government] by the imposition of penal or prohibitory assessment or charge, and whereas doubts have arisen as to how far such practice is authorized by law and it is expedient to make statutory provision for checking such occupation; It is hereby enacted as follows :—

Short title and extent.

1. This Act may be cited as "The Madras Land Encroachment Act, 1905." It extends to the whole of the Presidency of Madras.

Right of property in public roads, etc. waters and lands.

2. (1) All public roads, streets, lanes and paths, the bridges, ditches, dikes and fences, on or beside the same, the bed of the sea and of harbours and creeks below high water mark, and of rivers, streams, nalas, lakes and tanks, and all canals and watercourses, and all standing and flowing water, and all lands, wherever situated, save in so far as the same are the property—

(*a*) of any zamindar, poligar, mittadar, jagirdar, shrotriemdar or inamdar or any person claiming through or holding under any of them, or

(*b*) of any person paying shist, Kattubadi, jodi, poruppu or quit-rent to any of the aforesaid persons, or

(*c*) of any person holding under ryotwari tenure, including that of a janmi in Malabar, or of a wargdar in South Canara, or in any way subject to the payment of land-revenue direct to Government, or

(*d*) of any other registered holder of land in proprietary right, or

(*e*) of any other person holding land under grant from [3][the Government] otherwise than by way of licence,

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, Part IV, dated 23rd December 1904, p. 595; for Report of the Select Committee, *see ibid*, dated 27th February 1905, p. 45; for Proceedings in Council, *see ibid*, dated 28th February 1905, p. 75, and *ibid*, dated 18th April 1905, p. 206.

[2] The words "Crown property" were substituted for the words "the property of Government" by the Adaptation Order of 1937 and the words "the property of Government" were substituted for "Crown property" by the Adaptation (Amendment) Order of 1950.

[3] The words "the Crown" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

and, as to lands, save also in so far as they are temple site or owned as house-site or backyard,

are and are hereby declared to be [1][the property of Government] except as may be otherwise provided by any law for the time being in force, subject always to all rights of way and other public rights and to the natural and easement rights of other land-owners, and to all customary rights legally subsisting.

(2) All public roads and streets vested in any local authority shall, for the purposes of this Act, be deemed to be [1][the property of Government].

Explanation.—In this section " high water mark " means the highest point reached by ordinary spring-tides at any season of the year.

Levy of assessment on lands unauthorizedly occupied.

3. Any person who shall unauthorizedly occupy any land which is [1][the property of Government] shall be liable to pay by way of assessment—

(i) if the land so occupied forms an assessed survey number or part thereof, the full assessment of such number for the whole period of his occupation or a part thereof proportionate to the area occupied, as the case may be, provided that, for special reasons, the Collector [2] [or subject to his control, the Tahsildar or Deputy Tahsildar] may impose the full assessment of such number or any lesser sum irrespective of the area occupied ;

(ii) if the land so occupied be unassessed, an assessment on the area occupied calculated for the same period at the rate imposed on lands of a similar quality in the neighbourhood, or at the highest dry or wet rate of the village as the case may be, or when no such rates exist in such manner as may be prescribed in rules or orders under section 8 :

Provided that payment of assessment under this section shall not confer any right of occupancy.

Explanation.—For the purposes of this section occupation for an incomplete portion of a fasli may be deemed to be occupation for a whole fasli.

Conclusiveness of decision as to amount of assessment.

4. The [3][*] decision as to the rate or amount of assessment payable under section 3 shall be recorded in writing and shall not be questioned in any civil court.

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[1] The words " Crown property " were substituted for the words " the property of Government " by the Adaptation Order of 1937 and the words " the property of Government " were substituted for " Crown property " by the Adaptation (Amendment) Order of 1950.

[2] The words in square brackets were inserted by Mad. Act VIII of 1914, section 2.

[3] The word " Collector's " was omitted by *ibid.*

Liability of person unauthorizedly occupying land to penalty after notice.

5. Any person liable to pay assessment under section 3 shall also be liable at the discretion of the Collector, [1] [or subject to his control, the Tahsildar or Deputy Tahsildar] to pay in addition by way of penalty—

(i) if the land be assessed land, a sum not exceeding five rupees or, when ten times the assessment payable for one year under section 3 exceeds five rupees, a sum not exceeding ten times such assessment, provided that no penalty shall ordinarily be imposed in respect of the unauthorized occupation of such land for any period not exceeding one year ;

(ii) if the land be unassessed, a sum not exceeding ten rupees, or when twenty times the assessment payable for one year under section 3 exceeds ten rupees, a sum not exceeding twenty times such assessment.

Liability of person unauthorizedly occupying land to summary eviction, forfeiture of crops, etc.

6. (1) Any person unauthorizedly occupying any land for which he is liable to pay assessment under section 3 may be summarily evicted by the Collector, and any crop or other product raised on the land shall be liable to forfeiture and any building or other construction erected or any thing deposited thereon shall also, if not removed by him after such written notice as the Collector may deem reasonable, be liable to forfeiture. Forfeitures under this section shall be adjudged by the Collector and any property so forfeited shall be disposed of as the Collector may direct.

Mode of eviction.

(2) An eviction under this section shall be made in the following manner, namely :—By serving a notice in the manner provided in section 7 on the person reputed to be in occupation or his agent requiring him within such time as the Collector may deem reasonable after receipt of the said notice to vacate the land, and, if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and if the officer removing any such person shall be resisted or obstructed by any person, the Collector shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause and that such resistance or obstruction still continues, may issue a warrant for the arrest of the said person and on his appearance commit him to close custody in the office of the Collector or of any Tahsildar or Deputy Tahsildar for such period not exceeding 30 days as may be necessary to prevent the continuance of such obstruction or resistance or may send him with a warrant in the form of the schedule for imprisonment in the civil jail of the district for the like period :

Provided that no person so committed or imprisoned under this section shall be liable to be prosecuted under sections 183, 186, or 188 of the Indian Penal Code in respect of the same facts.

Central Act XVL of 1860.

[1] The words in square brackets were inserted by Madras Act VIII of 1914, section 2.

Prior notice to person in occupation.

7. Before taking proceedings under section 5 or section 6 the Collector [1] [or Tahsildar, or Deputy Tahsildar, as the case may be] shall cause to be served on the person reputed to be in unauthorized occupation of land being [2][the property of Government] a notice specifying the land so occupied and calling on him to show cause before a certain date why he should no be proceeded against under section 5 or section 6.

Such notice shall be served in the manner prescribed in section 25 of the Madras Revenue Recovery Act, 1864, or in such other manner as the [3][State Government] by rules or orders under section 8 may direct. Mad. Act II of 1864.

Power to make rules.

8. The [3] [State Government] may make rules or orders either generally or in any particular instance—

(*a*) regulating the rates of assessment leviable under section 3 ;

(*b*) regulating the imposition of penalties under section 5 ;

(*c*) declaring that any particular land or class of lands which are [2][the property of Government] shall not be open to occupation ;

(*d*) regulating the service of notices under this Act.

Such general rules or orders shall be made only after previous publication.

Recovery of assessment or penalty levied as arrears of land-revenue.

9. The amount of assessment and penalty imposed under this Act on any person unauthorizedly occupying any land shall be deemed to be land-revenue and may be recovered from him as arrears of land-revenue under the provisions of the Madras Revenue Recovery Act, 1864, or the Madras City Land Revenue (Amendment) Act, 1867, as the case may be. Mad. Act II of 1864. Mad. Act VI of 1867.

Appeal.

[4][**10.** (1) An appeal shall lie (*a*) to the Collector from any decision or order passed by a Tahsildar or Deputy Tahsildar under this Act, and (*b*) to the District Collector from any decision or order of a Collector passed otherwise than on appeal, and (*c*) to the Board of Revenue from any decision or order of a District Collector passed otherwise than on appeal. There shall be no appeal against a decision or order passed by

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[1] The words in square brackets were inserted by Mad. Act VIII of 1914, section 2.

[2] The words " Crown property " were substituted for the words " the property of Government " by the Adaptation Order of 1937 and the words " the property of Government " were substituted for " Crown property " by the Adaptation (Amendment) Order of 1950.

[3] The words " Provincial Government " were substituted for the words "Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] This section was substituted by Madras Act VIII of 1914.

the Collector or the District Collector on appeal, but the District Collector may revise any decision or order passed by a Deputy Tahsildar, Tahsildar or Collector under this Act, and the Board of Revenue [1] [* * * *] may revise any decision or order passed by any officer under this Act.

(2) Pending the disposal of any appeal or petition for revision under this Act, the Collector, [2][the District Collector or the Board of Revenue] as the case may be, may suspend the execution of the order appealed against or sought to be revised.]

Limitation of appeal.

11. No appeal shall be brought after the expiration of sixty days from the date of the decision or order complained of, provided that in computing the period of sixty days, the time required to obtain a copy of the decision or order appealed against shall be excluded, but the appeal may be admitted after the period hereby prescribed when the appellant satisfies the authority to whom he appeals that he had sufficient cause for not preferring the appeal within the prescribed period.

Document accompanying petition of appeal.

12. Every petition of appeal under this Act shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

Saving of operations of other laws in force.

13. Nothing in this Act contained shall be construed as exempting any person unauthorizedly occupying land from liability to be proceeded against under any law for the time being in force :

Provided that if any penalty has been levied from any person under section 5 of this Act, no similar penalty shall be levied from him under any other law in respect of such occupation.

Saving of suits by persons aggrieved by proceedings under Act.

14. Nothing contained in this Act shall be held to prevent persons deeming themselves aggrieved by any proceedings under this Act except as hereinbefore provided, from applying to the civil courts for redress ; Provided that the civil courts shall not take cognizance of any suit instituted by such person for any such cause of action unless such suit shall be instituted within six months from the time at which the cause of action arose.

Explanation.—The cause of action shall be deemed to have arisen—

(*a*) in respect of any assessment or penalty, on the date on which such assessment or penalty was levied ;

(*b*) in respect of eviction or forfeiture, on the date of eviction or forfeiture.

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[1] The words " or the Local Government " were omitted by section 3 (i) of the Madras Irrigation Cess and Land Encroachment (Amendment) Act, 1935 (Madras Act V of 1936).

[2] These words were substituted for the words " the District Collector, the Board of Revenue or the Local Government " by section 3 (ii), *ibid.*

Validation of levy of penal assessment before the passing of Act. Saving of pending suits.

15. Every proceeding taken by a Collector for the recovery of any sum of money by way of penal or prohibitory assessment or charge from any person who has unauthorizedly occupied any land hereby declared to be [1] [the property of Government] shall, if such sum has been recovered prior to the passing of this Act, be deemed to have been lawfully taken, provided that this section shall not apply to any suits pending when this Act comes into force in a Court of First Instance or in a Court of Appeal or affect the validity and operation of any decree or order already passed by a court of competent jurisdiction.

Certain persons deemed to be in unauthorized occupation of land.

[2] [**15-A.** Where a lease of land which is the property of the Government expires or is terminated by the Government or any other authority competent in that behalf, the lessee or any other person remaining in possession of the land after such expiry or termination, or

where land granted to any person is liable to be resumed by the Government for the breach or non-observance of any of the conditions subject to which the grant is made and the Government or any other authority competent in that behalf have passed orders resuming the land for such breach or non-observance, the grantee or any other person remaining in possession of the land after the passing of those orders,

shall, for the purposes of sections 3 to 15, be deemed to be a person unauthorizedly occupying such land.]

Saving of lands claimed by right of escheat or reversion.

16. Nothing in this Act [3][save as provided in section 15-A], shall apply to any lands claimed by right of escheat, [4][ ] or reversion until such lands have been reduced into possession by [5][the State Government].

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[1] The words " Crown property " were substituted for the words " the property of Government " by the Adaptation Order of 1937 and the words " the property of Government " were substituted for " Crown property " by the Adaptation (Amendment) Order of 1950.

[2] This section was inserted by section 2 of the Madras Land Encroachment (Amendment) Act, 1950 (Madras Act XXIX of 1950).

[3] These words, figures and letter were inserted by section 3, *ibid.*

[4] The word " resumption " was omitted by *ibid.*

[5] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

SCHEDULE.

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 6.

Seal.

To

The Officer in charge of the Civil Jail at

Whereas *A.B.* of has resisted (or obstructed) *C.D.* in removing *E.F.* (or himself, that is, the said *A.B.*) from certain land in the village of in the taluk, and whereas it is necessary in order to prevent the continuance of such obstruction (or resistance) to commit the said *A.B.* to close custody, you are hereby required under the provisions of section 6 of the Madras Land Encroachment Act, 1905, to receive the said *A.B.* into the jail under your charge and there to keep him in safe custody for days

Dated this day of

(Signature of Collector).

MADRAS ACT No. III OF 1907.[1]

[THE MADRAS CITY POLICE (AMENDMENT) ACT, 1907.]

[*2nd May* 1907 ; *20th May* 1907.]

An Act to provide for the control by the Inspector-General of Police of the Administration of the Madras City Police.

WHEREAS it is expedient to place the Commissioner of Police, Madras, under the control and direction of the Inspector-General ; It is hereby enacted as follows :— Preamble.

1. This Act may be called the Madras City Police (Amendment) Act, 1907, and it shall come into force on such date as the [3][State Government] may, by a notification in the [4][Official Gazette] direct. Title and [2] commencement.

[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1907, Part IV, page 44 ; for Proceedings in Council, *see ibid*, page 74.

[2] This Act came into force on 1st September 1907, *see Fort St. George Gazette*, 1907, Part I, page 856.

[3] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

Control of the Inspector-General over the Commissioner of Police.

2. Notwithstanding anything contained in the Madras City Police Act, 1888, the Commissioner of Police for the City of Madras shall, in the exercise of his functions under the said Act [1] [except those under section 7 thereof] be under the control and direction of the Inspector-General of Police for the Presidency of Madras, subject to any rules that may be made under section 3. [2] [* * * * .] Mad. Act III of 1888.

Power of State Government to make rules.

3. It shall be competent to the [3] [State Government] to make rules to limit and regulate the exercise of the powers of control and direction conferred on the Inspector-General of Police by section 2 in respect of the Commissioner of Police for the City of Madras.

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[1] These words and figure were inserted by section 10 of the Madras City Police (Amendment) Act, 1936 (Madras Act XX of 1936).

[2] The following words were omitted by *ibid* :—

"provided that such control and direction shall not extend to any matter in respect of which the said Commissioner of Police is, under the said Act, expressly made subject to the control and direction of the Local Government."

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

THE MADRAS ESTATES LAND ACT, 1908.

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203 Regard to be paid by Courts to entries in record-of-rights.

204 Power of District Collector and Board of Revenue to distribute business and to withdraw and transfer cases.

205 Power to call for and revise proceedings of Collectors.

206 Power to invest any person with powers of Collector.

207 Appointment of Additional District Collectors.

208 District Collector and Collectors for scheduled districts.

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CHAPTER XVI.

LIMITATION.

210 Limitation for suits, etc.

211 Application of the Indian Limitation Act, 1908.

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SCHEDULE.

PART A.—Suits triable by a Collector.

PART B.—Applications to be disposed of by a District Collector or Collectors.

(Chapter I.—Preliminary.)

MADRAS ACT No. I OF 1908.[1]

(THE MADRAS ESTATES LAND ACT, 1908.]

[*25th March* 1908 ; *28th June* 1908.]

An Act to declare and amend the law relating to the holding of land in estates in the Presidency of Madras.

Preamble. WHEREAS it is expedient to amend and declare the Law relating to the holding of land in estates in the Presidency of Madras ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called the Madras Estates Land Act, 1908 :

Commencement. it shall come into force on the first day of July 1908 :

Local extent. and it shall extend to the whole of the Presidency of Madras except the Presidency Town, the district of Malabar and the portion of the Nilgiri district known as the South East Wynaad.

Repeal. 2. Madras Acts VIII of 1865 and II of 1871 and section 7 of Madras Act III of 1890 are hereby repealed.

Definitions. 3. In this Act, unless there is something repugnant in the subject or context—

"Agriculture." (1) "Agriculture" with its grammatical variations and cognate expressions shall include horticulture.

"Collector." [2][(1-A) "Collector" means a Revenue Divisional Officer and includes any person appointed by the [3](State Government) whether by name or in virtue of his office, to exercise any of the functions of a Collector under this Act.]

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, Part IV, 1905, page 173 ; for Report of Select Committee, *see ibid*, 1906, page 3 ; and for Proceedings in Council, *see ibid*,1905, pages 368, 433, 509 ; *ibid*, 1907, page 226 ; *ibid*, 1908, pages 2, 41, 69, 97, 133, 163, 197, 229, 261, 293, 323, 353, 383, 413, 443, 487, 513 and 537.

This Act is not in force in the taluks of Nugur, Albaka and Cherla, *vide* section 2 (2) of the Nugur, Albaka and Chorla Laws and Cesses Regulation, 1909 (Central Act I of 1909).

This Act will cease to be in force in certain Scheduled Areas in the East Godavari, West Godavari and Visagapatam districts—*see* the Madras Partially Excluded Areas (Estates Land Repealing) Regulation, 1943 (Madras Regulation I of 1943).

[2] This clause was inserted by section 4 (1) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(2) "Estate" means— "Estate."

(*a*) any permanently-settled estate or temporarily-settled zamindari;

(*b*) any portion of such permanently-settled estate or temporarily-settled zamindari which is separately registered in the office of the Collector;

(*c*) any unsettled palaiyam or jagir;

[1] [(*d*) any inam village of which the grant has been made, confirmed or recognized by the [2] [ ] Government, notwithstanding that subsequent to the grant, the village has been partitioned among the grantees or the successors in title of the grantee or grantees.]

[3] [*Explanation* (1).—Where a grant as an inam is expressed to be of a named village, the area which forms the subject-matter of the grant shall be deemed to be an estate notwithstanding that it did not include certain lands in the village of that name which have already been granted on service or other tenure or been reserved for communal purposes.]

Explanation [3] [(2)].—Where an inam village is resumed by the Government, it shall cease to be an estate; but, if any village so resumed is subsequently regranted by the Government as an inam, it shall from the date of such re-grant, be regarded as an estate.

Explanation [3] [(3)].—Where a portion of an inam village is resumed by the Government, such portion shall cease to be part of the estate, but the rest of the village shall be deemed to be an inam village for the purposes of this sub-clause. If the portion so resumed or any part thereof is subsequently regranted by the Government as an inam, such portion or part shall from the date of such re-grant, be regarded as forming part of the inam village for the purposes of this sub-clause];

(*e*) any portion consisting of one or more villages of any of the estates specified above in clauses (*a*), (*b*) and (*c*) which is held on a permanent under-tenure.

(3) "Holding" means a parcel or parcels of land held under a single [4] [patta] or engagement in a single village: "Holding."

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[1] This sub-clause was substituted for the original sub-clause (*d*) by section 2 (i) of the Madras Estates Land (Third Amendment) Act, 1936 (Madras Act XVIII of 1936).

[2] The word "British" was omitted by the Adaptation (Amendment) Order of 1950.

[3] Old Explanations (1) and (2) were renumbered as Explanations (2) and (3) respectively and Explanation (1) was inserted by section 2 (1) of the Madras Estates Land (Amendment) Act, 1945 (Madras Act II of 1945), re-enacted permanently by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948). This amendment shall be deemed to have had effect as from the date on which the Madras Estates Land (Third Amendment) Act, 1936 (Madras Act XVIII of 1936), came into force.

[4] This word was substituted for the word "puttah" by section 2 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

Provided that if the landholder and ryot so agree in writing any portion of a holding as above defined shall be treated as a separate holding.

"Improvement." (4) "Improvement" means with reference to a ryot's holding any work which materially adds to the value of the holding, which is suitable to the holding and consistent with the character thereof, and which if not executed on the holding, is either executed directly for its benefit or after execution is made directly beneficial to it, and, subject to the foregoing provisions, includes—

(*a*) the construction of tanks, wells, water channels, and other works for the storage, supply, or distribution of water for agricultural purposes;

(*b*) the construction of works for the drainage of land, or for the protection of land from floods, or from erosion or from other damage by water;

(*c*) the reclaiming, clearing, enclosing, levelling, or terracing of land and the preparation of land for irrigation;

(*d*) the erection of buildings on the holding or in its immediate vicinity, elsewhere than on the village-site, required for the convenient or profitable use or occupation of the holding and the erection of dwelling houses for the ryot and his family and servants;

(*e*) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto; and

(*f*) the planting of fruit trees and fruit gardens;

but does not include, unless made with the written consent of the landholder, any work which prejudicially affects any other land of the landholder.

"Landholder." (5) "Landholder" means a person owning an estate or part thereof and includes every person entitled to collect the rents of the whole or any portion of the estate by virtue of any transfer from the owner or his predecessor-in-title or of any order of a competent Court or of any provision of law.

Where there is a dispute between two or more persons as to which of them is the landholder for all or any of the purposes of this Act or between two or more joint landholders as to which of them is entitled to proceed and be dealt with as such landholder, the person who shall be deemed to be the landholder for such purposes shall be the person whom the Collector subject to any decree or order of a competent Civil Court may recognize or nominate as such landholder in accordance with rules to be framed by the [1] [State Government] in this behalf.

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(6) [1][* * * * * *]

(7) [1][* * * * * * *]

(8) "Pay", "payable" and "payment" used with reference to rent include "deliver", "deliverable" and "delivery." "Pay," etc.

(9) "Prescribed" means prescribed from time to time by the [2] [State Government] by notification in the official Gazette. "Prescribed."

[3][(10) "Private land"— "Private land"

(*a*) in the case of an estate within the meaning of sub-clauses (*a*), (*b*), (*c*) or (*e*) of clause (2), means the domain or home-farm land of the landholder by whatever designation known, such as, *kambattam*, *khas*, *sir*, or *pannai*, and includes all land which is proved to have been cultivated as private land by the landholder himself, by his own servants or by hired labour, with his own or hired stock, for a continuous period of twelve years immediately before the commencement of this Act; and

(*b*) in the case of an estate within the meaning of sub-clause (*d*) of clause (2), means—

(i) the domain or home-farm land of the landholder, by whatever designation known, such as, *kambattam*, *khas*, *sir* or *pannai*; or

(ii) land which is proved to have been cultivated as private land by the landholder himself, by his own servants or by hired labour, with his own or hired stock, for a continuous period of twelve years immediately before the first day of July 1908, provided that the landholder has retained the kudivaram ever since and has not converted the land into ryoti land; or

(iii) land which is proved to have been cultivated by the landholder himself, by his own servants or by hired labour, with his own or hired stock, for a continuous period of twelve years immediately before the first day of November 1933, provided that the landholder has retained the kudivaram ever since and has not converted the land into ryoti land; or

(iv) land the entire kudivaram in which was acquired by the landholder before the first day of November 1933 for valuable consideration from a person owning the kudivaram but not the melvaram, provided that the landholder has retained the kudivaram ever since and has not converted

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[1] Clauses (6) and (7) were omitted by section 4 (3) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This clause was substituted for the original clause (10) by section 2 (ii) of the Madras Estates Land (Third Amendment) Act, 1936 (Madras Act XVIII of 1936).

the land into ryoti land, and provided further that, where the kudivaram was acquired at a sale for arrears of rent, the land shall not be deemed to be private land unless it is proved to have been cultivated by the landholder himself, by his own servants or by hired labour, with his own or hired stock, for a continuous period of twelve years since the acquisition of the land and before the commencement of the Madras Estates Land (Third Amendment) Act, 1936.] Madras Act XVIII of 1936.

"Rent." [1][(11) "Rent" means whatever is lawfully payable in money or in kind or in both to a landholder by a ryot for the use or occupation of land for the purpose of agriculture and includes whatever is lawfully payable on account of water supplied by the landholder or taken without his permission for cultivation of land where the charge for water has not been consolidated with the charge for the use or occupation of the land.

For the purposes of sections 5, 27, 28, 59 to 72, 77 to 131, 135, 136, 145 to 148, 165, 210 and 211 and the Schedule, rent includes also—

(*a*) any local tax, cess, fee or sum lawfully payable to a landholder by a ryot as such in addition to the rent due according to law or usage having the force of law and also money recoverable under any enactment for the time being in force as if it was rent; and

(*d*) sums lawfully payable to a landholder by a ryot as such on account of pasturage fees and fishery rents.]

"Revenue field." (12) "Revenue field" means a survey field, or any field or parcel of land, on which a definite rent is payable, or which in case of dispute may be declared by a Collector to be a revenue field.

(13) [2][* * * * * * *]

"Revenue year." (14) "Revenue year" means the year ending on the 30th June.

"Ryot." (15) "Ryot" means a person who holds for the purpose of agriculture ryoti land in an estate on condition of paying to the landholder the rent which is legally due upon it.

[3][*Explanation.*—A person who has occupied ryoti land for a continuous period of twelve years shall be deemed to be a ryot for all the purposes of this Act.]

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[1] This clause was substituted for the original clause (11) by section 4 (5) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Clause (13) was omitted by section 3, *ibid.*

[3] Explanation to clause 15 was added by section 4 (6), *ibid.*

(16) "Ryoti land" means cultivable land in an estate other than private land but does not include— "Ryoti land."

[1][(*a*) beds and bunds of tanks and of supply, drainage surplus or irrigation channels ;]

(*b*) threshing-floor, cattle-stands, village-sites, and other lands situated in any estate which are set apart for the common use of the villagers ;

(*c*) lands granted on service tenure either free of rent or on favourable rates of rent if granted before the passing of this Act or free of rent if granted after that date, so long as the service tenure subsists.

(17) "Signed" includes stamped with the name of the person purporting to sign. "Signed."

(18) "Tahsildar" includes a Deputy Tahsildar. "Tahsildar."

(19) "Village" means any local area situated in or constituting an estate which is designated as a village in the revenue accounts and for which the revenue accounts are separately maintained by one or more karnams or which is now recognized by the [2][State Government] or may hereafter be declared by the [2][State Government] for the purposes of this Act to be a village, and includes any hamlet or hamlets which may be attached thereto. "Village."

CHAPTER II.

General Rights.

4. Subject to the provisions of this Act, a landholder is entitled to collect rent in respect of all ryoti land in the occupation of a ryot. Landholder's right to collect rent.

5. (1) The rent of ryoti land together with any interest which may be due in respect thereof shall be a first charge upon the holding and upon the produce of the holding or any part thereof, provided that, if gathered, the produce is in the custody or possession of the ryot or deposited on the holding or on a threshing-floor or place for treading out grain, or the like, whether in the fields or within the homestead. Rent to be a first charge upon the holding and produce thereof.

(2) Nothing in this section shall be deemed to affect any right of the [3][Government].

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[1] This sub-clause was substituted for the original sub-clause (*a*) of clause 16 by section (4) (7) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] The word "Crown" was substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

(Chapter II.—General Rights.)

Occupancy right in ryoti land.

[1][6. [2](1) Subject to the provisions of this Act, every ryot now in possession or who shall hereafter be admitted by a landholder to possession of ryoti land situated in the estate of such landholder shall have a permanent right of occupancy in his holding.

Explanation (1).—For the purposes of this sub-section, the expression 'every ryot now in possession' shall include every person who, having held land as a ryot, continues in possession of such land at the commencement of this Act.

[3][*Explanation* (2).—In relation to any inam village which was not an estate before the commencement of the Madras Estates Land (Third Amendment) Act, 1936, but became an estate by virtue of that Act, or in relation to any land in an inam village which ceased to be part of an estate before the commencement of that Act, the expressions 'now' and 'commencement of this Act' in this sub-section and Explanation (1) shall be construed as meaning the thirtieth day of June 1934, and the expression 'hereafter' in this sub-section shall be construed as meaning the period after the thirtieth day of June 1934.]

Explanation [3][(3)].—Every landholder who receives or recovers any payment under section 163 from any person unauthorizedly occupying ryoti land shall be deemed to have thereby admitted such person into possession unless within two years from the date of receipt or recovery of payment or the first of such payments, if more than one, he shall file a suit in a Civil Court for ejectment against such person.

(2) Admission to waste land under a contract for the pasturage of cattle and admission to land reserved *bona fide* by a landholder for raising a garden or tope or for forest under a contract for the temporary cultivation thereof with agricultural crops shall not by itself confer upon the person so admitted a permanent right of occupancy; nor shall such land, by reason only of such letting or temporary cultivation, become ryoti land.

(3) A landholder who has acquired lands under section 186 may, for a period not exceeding three years in the aggregate, with the previous permission in writing of the Collector, temporarily let such lands for agricultural purposes but such letting shall not confer on the tenant any permanent right of occupancy.

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[1] This section was substituted for the original section 6 by section 5 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] *See* also the Madras Estates Land (Temporary Amendment) Act, 1944 (Madras Act I of 1944), re-enacted permanently with specified modifications by section 3 of, and the Second Schedule to the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[3] New Explanation (2) was inserted and original Explanation (2) was renumbered as Explanation (3) by section (3) of the Madras Estates Land (Third Amendment) Act, 1936 (Madras Act XVIII of 1936).

(4) When a landholder has reclaimed waste land by his own servants or hired labour, he may, by contract in writing, prevent any person from acquiring a permanent right of occupancy in respect of the said land during a period of thirty years from the date of the first cultivation after reclamation.

(5) A person holding land as an ijaradar or farmer of the rent shall not, while so holding, acquire, otherwise than by inheritance or devise, a right of occupancy in any land comprised in the ijara or farm.

(6) Notwithstanding anything contained in this Act, the relations between the landholder and the person let into possession under sub-sections (2), (3) or (4) shall during the period and for the purpose referred to therein be regulated by the contract between the parties.]

Ryot becoming landholder, ijaradar or farmer of rent.

[1] [6-A. A person having a right of occupancy in land does not lose it by subsequently becoming interested in the land as landholder or by subsequently holding the land as an ijaradar or farmer of rent.]

Reservation of mining rights.

7. Nothing in this Act shall affect any right of a landholder to make a reservation of mining rights on admitting any person to possession of ryoti land.

Merger of occupancy right.

[2] [8.] (1) Whenever before or after the commencement of this Act the occupancy right in any ryoti land vests in the landholder, he shall have no right to hold the land as a ryot but shall hold it as a landholder, but nothing in this sub-section shall prejudicially affect the rights of any third person.

[3] [* * * * * * * * * * *]

(2) Whenever before or after the commencement of this Act the occupancy right in any ryoti land vests in any co-landholder, he shall be entitled to hold the land subject to the payment to his co-landholders of the shares of the rent which may from time to time be payable to them and if such co-landholder lets the land to a third person, such third person shall be deemed to be a ryot in respect of the land.

(3) The meger, if any, of the occupancy right under sub-sections (1) and (2) shall not [4] [* * * * * * *] have the effect of converting ryoti land into private land.

(4) Where after the passing of this Act, the interest of the ryot in the holding passes to the landholder by inheritance, the landholder shall notwithstanding anything contained in

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[1] This section was inserted by section 6 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] This section was substituted for the original section 8 by section 7, *ibid.*

[3] The proviso to sub-section (1) was omitted by section 4 (i) of the Madras Estates Land (Third Amendment) Act, 1936 (Madras Act XVIII of 1936).

[4] The words, figure and brackets "except in the case referred to in the proviso to sub-section (1)" were omitted by section 4 (ii), *ibid.*

this Act have the right, for a period of twelve years from the date of succession, of admitting any person to the possession of such land on such terms as may be agreed upon between them.]

[1] [(5) If before the first day of November 1933, the landholder has obtained in respect of any land in an estate within the meaning of sub-clause (*d*) of clause (2) of section 3 a final decree or order of a competent Civil Court establishing that the tenant has no occupancy right in such land, and no tenant has acquired any occupancy right in such land before the commencement of the Madras Estates Land (Third Amendment) Act, 1936, the landholder shall, if the land is not private land within the meaning of this Act, have the right, notwithstanding anything contained in this Act, for a period of twelve years from the commencement of the Madras Estates Land (Third Amendment) Act, 1936, of admitting any person to the possession of such land on such terms as may be agreed upon between them : Madras Act XVIII of 1936.

Provided that nothing contained in this sub-section shall be deemed during the said period of twelve years or any part thereof to affect the validity of any agreement between the landholder and the tenant subsisting at the commencement of the Madras Estates Land (Third Amendment) Act, 1936.] Madras Act XVIII of 1936.

Right of landholder to eject a ryot.

9. No landholder shall as such be entitled to eject a ryot from his holding or any part thereof otherwise than in accordance with the provisions of this Act.

Occupancy right heritable and transferable.

10. (1) All rights of occupancy shall be heritable, and shall be transferable by sale, gift or otherwise.

(2) If a ryot dies intestate [2] [* * * * * * *] without leaving any heirs except the [3] [Government], his right of occupancy shall be extinguished but the land in respect of which he had such right of occupancy shall not cease to be ryoti land.

Use of land by the ryot.

11. A ryot may use the land in his holding in any manner which does not materially impair the value of the land or render it unfit for agricultural purposes.

Right of ryot to trees in holding.

[4] [**12.** (1) Subject to any rights which by custom or by contract in writing executed by the ryot before the passing of this Act are reserved to the landholder, every ryot shall have

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[1] Sub-section (5) was added by section 4 (iii) of the Madras Estates Land Third Amendment) Act, 1936 (Madras Act XVIII of 1936).

[2] The words " in respect of a right of occupancy and " were omitted by ection 8 of the Madras Estates Land (Amendment) Act, 1934 (Madras snVIII of 1934).

[3] This word was substituted for the word " Crown " by the Adaptation Order of 1950.

[4] This section was substituted for the orignal section 12 by section 9 of the Madras Estates second (Amendment) Act, 1934 (Madras Act VIII of 1934).

the right to use, enjoy, cut down, carry away or otherwise dispose of all trees now in his holding and in the case of trees which after the passing of this Act may be planted by the ryot or which may naturally grow upon the holding, he shall have the right to use, enjoy, cut down, carry away or otherwise dispose of them notwithstanding any contract or custom to the contrary.

(2) It shall be open to a ryot on payment to the landholder of such compensation as may be fixed by the Collector on an application made to him in that behalf, to acquire the rights reserved to a landholder by custom or by contract in writing executed as aforesaid, in any trees which were in the holding of the ryot before the passing of this Act :

Provided that nothing contained in this sub-section shall be deemed to affect the rights of any third person or to entitle a ryot to acquire compulsorily the landholder's rights to any trees included in a tree-patta issued by him to a third person.]

Right of occupancy ryot to make an improvement.

13. (1) [1] [Neither a ryot nor the landholder] shall as such be entitled to prevent the other from making an improvement in respect of the holding except on the ground that he is willing to make it himself.

(2) If both the ryot and the landholder wish to make the same improvement, the ryot shall have the prior right to make it, unless it affects the holding of another ryot under the same landholder, in which case the landholder shall have the prior right.

[2] [(3) Notwithstanding any usage or contract to the contrary, the ryot shall not, by reason of his making an improvement at his expense, become liable to pay a higher rate of rent on account of any increase of production or of any change in the nature of the crop raised, as a consequence of such improvement.]

[3] [**14.** * * * * *].

Power of Collector to settle questions connected with improvements.

15. If a question arises between a ryot and the landholder,

(*a*) as to the right to make an improvement, or

(*b*) as to whether a particular work is or will be an improvement,

the Collector may, on the application of either party, decide the question.

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[1] These words were substituted for the words " Where a ryot has a permanent right of occupancy in his holding neither the ryot nor the landholder " by section 10 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] This sub-section was substituted for the original sub-section (3) of section 13 by section 10 (ii), *ibid.*

[3] Section 14 was omitted by section 11, *ibid.*

Registration of land holder's improvement.

16. (1) A landholder may apply to [1][the Collector] to register any improvement which he has lawfully made or which has been lawfully made at his expense or which he has assisted a ryot in making.

(2) The application shall be in such form, shall contain such information, and shall be verified in such manner, by local enquiry or otherwise, as the [2][State Government] may by rule direct.

(3) The [1][Collector] may reject it if it has not been made within twelve months from the date of the completion of the work.

Application to record evidence as to improvement.

17. (1) If any landholder or ryot of a holding desires that evidence relating to any improvement made after the passing of this Act in respect of a holding shall be recorded, he may apply to the Collector, who shall thereupon, at a time and place of which notice shall be given to both parties, record the evidence, unless for reasons to be recorded he considers that there are no grounds for the application.

(2) When any matter has been recorded under this section, the record shall be admissible in evidence in every subsequent proceeding between the landholder and ryot or any persons claiming under them.

Landholder's right to enter on and measure land.

[3][**17-A.** Every landholder by himself or his duly authorized agent may at all reasonable times enter upon any land in his estate for any of the purposes of this Act and may also measure any land for any such purpose.]

Saving as to improvements made in ordinary course of cultivation.

18. Notwithstanding anything contained in sections 13 [4][* *] and 15, the ryots shall be entitled to make temporary wells, water channels, embankments, levellings, enclosures or other works or petty alterations or repairs to such works as are made in the ordinary course of cultivation and the provisions of section 17 shall not apply to such works or repairs.

Relations of ryots and landholders with their tenants.

19. Except as otherwise specially provided in this Act, the relations between a ryot and his tenants, or between a

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[1] The words " the Collector " in section 16 (1) and the word " Collector " in section 16 (3) were substituted respectively for the words " such Revenue Officer as the Local Government may appoint " and " officer receiving the application " by section 3 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[3] Section 17-A was inserted by section 12 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[4] The figures " 14 " were omitted by section 13, *ibid.*

landholder and a tenant of his private land, and the rights of any other owners of land, are not regulated by the provisions of this Act.

Collector to decide whether land is communal land or not and the customary rights in such land.

[1] [20. (1) The Collector may, on the application of the landholder or other person interested, decide any question as to whether any land is or is not of the description mentioned in sub-clauses (*a*), (*b*) or (*c*) of clause (16) of section 3, or as to the customary rights in the user of any land which is of any such description, as existing at the commencement of this Act.

(2) Any person aggrieved by such decision may within a period of one year from the date thereof institute a suit in the Civil Court to establish the right claimed by him in respect of such land but subject to the result of such suit, if any, the Collector's decision shall be final.

Power of District Collector to divert disused communal lands.

20-A. (1) Subject to such rules as the [2][State Government) may prescribe in this behalf, the District Collector may on the application of the landholder, a ryot or any other person interested—

(*a*) declare that any land or any portion of any land which is set apart for any of the purposes referred to in sub-clauses (*a*) and (*b*) of clause (16) of section 3 is no longer required for its original purpose ; and

(*b*) by order in writing direct—

(i) that any such land or portion in respect of which such declaration is made be used for any other specified communal purpose ; or

(ii) if such land or portion is not required for any communal purpose, that it be converted into [3][ryotwari land] or landholder's ryoti land according as the reversionary rights in such land vest under the terms, express or implied, of the sanad, title-deed or other grant [4][in the Government] or in the landholder :

Provided that before making any such declaration and order, the District Collector shall have due regard to any other customary rights of the landholder or the ryots in the user of such land or portion and shall satisfy himself that the exercise of such rights would otherwise be provided for adequately if the declaration and order are put into effect :

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[1] Sections 20, 20-A and 20-B were substituted for the original section 20 by section 14 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] These words were substituted for the words "Government ryotwari land" by the Adaptation Order of 1937.

[4] The words "in the Crown" were substituted for the words "in the Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

Provided further that in the case of any land of the description referred to in sub-clause (*a*) of clause (16) of section 3 the reversionary rights in which vest in the landholder under the terms, express or implied, of the sanad, title-deed or other grant, any order under sub-clause (i) of clause (*b*) shall be made only with the consent of the landholder.

(2) Without the written order of the District Collector under clause (*b*) of sub-section (1), no land which is set apart for any of the purposes referred to in sub-clauses (*a*) and (*b*) of clause (16) of section 3 shall be assigned or used for any other purpose. Nothing contained in this sub-section shall affect or take away or be deemed to affect or take away the customary rights of the landholder or the ryots in the user of any such land.

Power of District Collector to acquire land for communal purposes.

20-B. (1) When the District Collector is satisfied that no land is set apart for any of the purposes mentioned in sub-clause (*b*) of clause (16) of section 3, or that any land so set apart or used is inadequate for the purpose, he may, after giving notice to the landholder and the other persons, if any, affected and after making such inquiry as he thinks fit, determine the land or additional land needed for the purpose, and apply to the [1][State Government] for the acquisition of such land under the Land Acquisition Act, 1894. On such application, the [1][State Government] may pass an order directing the District Collector to take order for the acquisition of such land under the said Act. Thereupon the provisions of that Act shall apply as if the [1][State Government] had directed the District Collector to take order for the acquisition of such land under section 7 of the said Act and the land shall, after such acquisition, be set apart for the purpose for which it is acquired. Central Act I of 1894.

The cost of such acquisition including all charges incidental thereto, shall be borne by the [1][State Government], any local authority or authorities having jurisdiction over the area in which the land is situated, the landholder and the ryots or other persons benefited thereby in such proportions as the District Collector may fix. If a local authority, landholder, ryot or other person makes default in paying its or his share, if any, of such cost, the District Collector may recover such share—

(i) in the case of a local authority, in such manner as may be prescribed ; and

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

(Chapter II.—General Rights. Chapter III.—General provisions relating to the rates of rent payable by ryots.)

(ii) in the case of a landholder, ryot or other person, in the same manner as an arrear of land revenue.

(2) Subject to such rules as the [1][State Government] may prescribe in this behalf, the share, if any, of such cost payable by a ryot under this section together with interest thereon at six per cent per annum may, at the discretion of the District Collector, take the form of annual payments, the amount of such payments being fixed with due regard to the prevailing rents.]

Eviction of persons occupying communal lands contrary to rule.

21. Any person occupying [2][any of the lands mentioned in sub-clauses (*a*) and (*b*) of clause (16) of section 3] for any purpose other than that for which the land is so set apart or contrary to the rules framed by the [1][State Government] may at any time within thirty years from the commencement of such occupation be summarily evicted by the Collector in the manner provided by the Madras Land Encroachment Act, 1905, and any crop, product, construction or thing raised, erected or deposited on or upon the lands shall be applied to such communal purposes as the District Collector may adjudge.

Madras Act III of 1905.

Application of provisions of Madras Land Encroachment Act to orders under section 21.

Madras Act III of 1905.

22. The provisions of sections 10 to 14 of the Madras Land Encroachment Act, 1905, shall apply, as far as may be, to [3][orders under section 21] of this Act.

Presumption that inam villages are estates.

[4][**23.** Where in any suit or proceeding it becomes necessary to determine whether an inam village or a separated part of an inam village was or was not an estate within the meaning of this Act as it stood before the commencement of the Madras Estates Land (Third Amendment) Act, 1936, it shall be presumed, until the contrary is shown, that such village or part was an estate.]

Madras Act XVIII of 1936.

CHAPTER III.

General Provisions relating to the rates of rent payable by ryots.

Restriction on enhancement.

24. The rent of a ryot shall not be enhanced except as provided by this Act.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words, figures and letters were substituted for the words and figures "any of the lands mentioned in section 20" by section 15 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[3] These words and figures were substituted for the words and figures "orders under sections 20 and 21" by section 16, *ibid.*

[4] This section was inserted by section 5 of the Madras Estates Land (Third Amendment) Act, 1936 (Madras Act XVIII of 1936).

(Chapter III.—General provisions relating to the rates of rent payable by ryots.)

Rent payable on admission to possession of ryoti land after commencement of Act.

25. [1] [A ryot] admitted by the landholder after the commencement of this Act to possession of ryoti land [2] [* * *] [1] [shall not, unless otherwise provided in this Act, be bound to pay rent at a rate exceeding] the rate prevailing for similar lands with similar advantages in the neighbourhood, or, in case such rate cannot be ascertained [1] [exceeding such rate] as the Collector may on application decide to be fair and equitable.

Saving as to receipt of premium.

Nothing in this section precludes the landholder from receiving any premium when the ryot is admitted into possession; but a ryot so admitted shall under no circumstances become liable to make any payment to the landholder after his admission by way of premium or other consideration for such admission; nor shall any holding of the ryot be subjected to any charge in respect of any such premium or consideration or part thereof.

Enhancement of rent originally fixed at a lower rate in consideration of bringing waste land into cultivation or of making improvement upon the holding.

26. (1) Where for the purpose of clearing and bringing waste land in the estate into cultivation or for the purpose of making any permanent improvement or for planting trees on the holding or where under a contract made prior to the commencement of this Act for any premium, loan or other valuable consideration, a ryot has accepted a [3] [patta] from or has entered into an engagement with his landholder at a rate of rent lower than the lawful rate previously payable upon the land or than the rate lawfully payable upon land of similar description and with similar advantages in the neighbourhood, such rent shall not be liable to enhancement during the period for which such lower rate is payable by contract or custom, so long as the ryot shall substantially fulfil the terms upon which and the purposes for which such lower rate was allowed.

(2) After the expiry of the period for which such lower rate of rent is payable or if the terms upon which and the purposes for which such lower rate was allowed have not been substantially fulfilled, the landholder shall be entitled to the full rate.

(3) Except as provided by sub-section (1) no rate of rent at which land may have been granted by a landholder shall be binding upon the person entitled to the rent after

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[1] The words "A ryot" were substituted for the words "Every ryot", the words "shall not, unless otherwise provided in this Act, be bound to pay rent at a rate exceeding" were substituted for the words "shall be bound to pay rent at a rate not exceeding" and the words "exceeding such rate" were substituted for the words "at such rate" by section 18 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "other than old waste" were omitted by *ibid.*

[3] This word was substituted for the word "puttah" by section 2, *ibid*

(Chapter III.—General provisions relating to the rates of rent payable by ryots.)

the lifetime of the landholder if such rate is lower than the lawful rate payable by the ryot before the date of the grant upon the land or upon land of similar description and with similar advantages in the neighbourhood.

Presumption as to amount of rent and conditions of holding.

27. If a question arises as to the amount of rent payable by a ryot or the conditions under which he holds in any revenue year, he shall be presumed, until the contrary is shown, to hold at the same rate and under the same conditions as in the last preceding revenue year.

Presumption as to fair rate of rent.

28. In all proceedings under this Act the rent or rate of rent for the time being lawfully payable by a ryot shall be presumed to be fair and equitable until the contrary is proved :

[1] [Provided that in the case of an estate within the meaning of sub-clause (*d*) of clause (2) of section 3, the rent or rate of rent lawfully payable by a ryot or tenant on the first day of November 1933 shall be presumed to be fair and equitable at the commencement of the Madras Estates Land (Third Amendment) Act, 1936, until the contrary is proved.]

Madras Act XVIII of 1936.

Waram rates not liable to enhancement.

29. Where for any land in his holding [2] [a ryot] pays rent according to the "Waram" (that is, the established rate of the village for dividing the crop between the landholder and the ryot) with or without an addition in money, or otherwise in kind or on the estimated value of a portion of the crop, or at rates varying with the crop or partly in one of these ways and partly in another or others, such rent shall not be liable to enhancement.

Enhancement of rent by application.

30. Where for any land in his holding a ryot pays a money rent the landholder may [3] [apply to the Collector] to enhance the rent on one or more of the following grounds and no others—

(i) that during the currency of the existing rent there has been a rise in the average local prices of staple food-crops in the taluk or zamindari division :

(*a*) Provided that if the rent be permanently payable at a fixed rate or rates it shall not be liable to be enhanced under this clause on the ground of a rise in prices :

(*b*) Provided also that no enhancement under this clause shall raise the rent by more than two annas in the rupee of the rent previously payable for the land ;

(ii) that during the currency of the existing rent the productive powers of the land held by the ryot have been

[1] This proviso was added by section 6 of the Madras Estates Land (Third Amendment) Act, 1936 (Madras Act XVIII of 1936).

[2] These words were substituted for the words "an occupancy ryot" by section 19 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[3] These words were substituted for the words "institute a suit before the Collector" by section 20, *ibid.*

(Chapter III.—General provisions relating to the rates of rent payable by ryots.)

increased by an improvement effected by, or at the expense of, the landholder ;

(iii) that a work of irrigation or other improvement has been executed at the expense of [1] [the Government], and the landholder has been lawfully required to pay in respect of the holding an additional revenue or rate to [1] [the Government] in consequence thereof ;

(iv) that the productive powers of the land held by the ryot have been increased by fluvial action.

Explanation.—" Fluvial action " includes a change in the course of a river rendering irrigation from the river practicable where it was not previously practicable.

Rules as to enhancement of rent on the ground of a rise in prices.

31. Where an enhancement is claimed under section 30, clause (i)—

(*a*) the Collector shall compare the average prices during the ten years immediately preceding the [2] [application] with the average prices during the ten years ending twenty years immediately before the [2] [application] ;

(*b*) if in the opinion of the Collector it is not practicable to take the decennial periods mentioned in clause (*a*), the Collector may, in his discretion, substitute any shorter periods therefor ;

(*c*) the average prices by which the Collector shall be guided shall be those published under the authority of the [3] [State Government] and the Collector shall presume that the prices shown in the lists prepared for any year subsequent to the passing of this Act are correct and may presume that the prices shown in the lists prepared for any year prior to the passing of this Act are correct unless and until it is proved that they are incorrect ;

(*d*) the decennial periods taken for the comparison of average prices shall be periods of ten years excluding all years which the [3] [State Government] may notify to be, or to have been, famine years in respect of any local area ;

(*e*) the enhanced rent shall bear to the previous rent the same proportion as the average prices during the last decennial period bear to the average prices during the previous ten years taken for purposes of comparison : Provided that,

[1] The words " the Crown " were substituted for the word " Government " by the Adaptation Order of 1937 and the word " Government " was substituted for " Crown " by the Adaptation Order of 1950.

[2] The word " application " was substituted for the words " institution of the suit " by section 21 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[3] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

(Chapter III.—General provisions relating to the rates of rent payable by ryots.)

in calculating this proportion, the average prices during the later period shall be reduced by one-half of their excess over the average prices during the earlier period.

Rules as to enhancement of rent on the ground of landholder's improvement.

32. (1) Where an enhancement is claimed under section 30, clause (ii)—

(*a*) the Collector shall not grant an enhancement unless the improvement has been registered in accordance with this Act or has been executed within fifteen years preceding the commencement of this Act ;

(*b*) in determining the amount of enhancement the Collector shall have regard to—

(i) the increase in the productive powers of the land caused or likely to be caused by the improvement ;

[1] [(ii) the cost of making the improvement and the proportion in which such cost was borne by the landholder and by the ryot ;]

[2] [(iii) the probable annual cost of maintenance of the improvement—

(*a*) to the landholder ; and

(*b*) to the ryot ;]

[2] [(iv)] the cost of the preparation and cultivation required for utilizing the improvement ; and

[2] [(v)] the existing rent and the ability of the land to bear a higher rent.

[3] [(2) Before executing any improvement, the landholder may, with the previous sanction of the Collector, enter into a contract with the ryot for the payment of an additional rent in consideration of such improvement. On the improvement being effected the landholder shall apply to the Collector for registration of the same, and the Collector after satisfying himself that the sanctioned improvement has been executed, shall register the same. On or after such registration and on the application of the landholder to enforce such contract, the Collector may pass an order granting such enhancement, not exceeding the additional rent mentioned in the contract, as is found by him to be reasonable with due regard to the considerations specified in clause (*b*) of sub-section (1).]

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[1] This sub-clause was substituted for the original sub-clause (ii) by section 22 (i) (*a*) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] New sub-clause (iii) was inserted and the original sub-clauses (iii) and (iv) were renumbered as sub-clauses (iv) and (v) respectively, by section 22 (i) (*b*), *ibid.*

[3] New sub-section (2) was inserted and the original sub-section (2) was renumbered as sub-section (3) by section 22 (ii) (*a*), *ibid.*

(Chapter III.—General provisions relating to the rates of rent payable by ryots.)

[1][(3)] An enhancement [2][ordered] under this section shall, on the application of the ryot or his successor in interest, be subject to revision by the Collector in the event of the improvement not producing or ceasing to produce the estimated effect.

Rules as to enhancement of rent on the ground of improvement by the Government.

33. Where an enhancement is claimed under section 30, clause (iii), the rent may be enhanced by the sum or proportionate part of the sum which the landholder has lawfully to pay to [3][the Government] on account of the improvement made by [4][it].

Rules as to enhancement of rent on the ground of fluvial action.

34. Where an enhancement is claimed under section 30, clause (iv)—

(*a*) the Collector shall not take into account any increase which is merely temporary or casual;

(*b*) the Collector may enhance the rent to such an amount as he may deem fair and equitable, but not so as to give the landholder more than one-half of the value of the net increase in the produce of the land.

Enhancement of rent to be fair and equitable.

35. Notwithstanding anything contained in sections 31 to 34, the Collector shall not in any case [5][order] any enhancement which is under the circumstances of the case unfair or inequitable, or which would operate so as to raise the rent beyond the value of the established waram of the village in which the holding is situated, commuted in accordance with the provisions of section 40.

Power to order enhancement to be gradual.

36. If the Collector [6][ordering] enhancement under clauses (i), (ii) and (iv) of section 30 considers that the immediate enforcement of [6][the order] to its full extent will be attended with hardship to the ryot, he may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees for any number of years, not exceeding five, until the limit of the enhancement [6][ordered] has been reached.

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[1] New sub-section (2) was inserted and the original sub-section (2) was renumbered as sub-section (3) by section 22 (ii) (*a*) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] This word was substituted for the word "decreed" by section 22 (ii) (*b*), *ibid.*

[3] The words "the Crown" were substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[4] This word was substituted for the word "them" by the Adaptation Order of 1937.

[5] This word was substituted for the word "decree" by section 23 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[6] The words "ordering", "the order" and "ordered" were substituted respectively for the words "passing a decree for", "the decree" and "decreed" by section 24, *ibid.*

(Chapter III.—General provisions relating to the rates of rent payable by ryots.)

Limitation of time to bring successive applications for enhancement of rent.

[1] [37. An application for enhancement of rent on the ground of a rise in prices shall not be entertained if, within the twenty years next preceding the application, the rent has been enhanced or reduced on the ground of a rise or fall in prices or commuted or a suit or an application for enhancement or reduction of rent on the ground of a rise or fall in prices has been dismissed on the merits :

Central Act V of 1908.

Provided that nothing in this section shall, in respect of pending suits, affect the provisions of rule 1 of Order XXIII of the Code of Civil Procedure, 1908.]

Reduction of Rent.

Reduction of rent by application.

38. (1) Where for any land in his holding [2] [a ryot] pays a money rent, he may [2] [apply to] the Collector for the reduction of his rent on one or more of the following grounds and on no others—

(*a*) that the soil of the holding has, without the fault of the ryot, become permanently deteriorated by a deposit of sand or by other specific cause, sudden or gradual ; or

(*b*) that, in the case of irrigated land, there has been a permanent failure of supply from the irrigation work on which it is dependent ; or

(*c*) that during the currency of the existing rent there has been a fall not due to a temporary cause in the average local prices of staple food-crops in the taluk or zamindari division.

(2) [3] [On such an application being made], the Collector may direct such reduction of the rent as he thinks fair and equitable and, in settling the amount of reduction under clause (*c*) of sub-section (1), shall have regard to the considerations specified in clauses (*a*), (*b*), (*c*) and (*d*) of section 31.

Limitation of time to bring successive applications for reduction of rent.

[4] [39. When in a suit or on an application under clause (*c*) of sub-section (1) of section 38, a decree or order has been passed reducing the rent or dismissing the suit or application on its merits, no fresh application shall be entertained under the same clause if made within twenty years from the date of such decree or order :

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[1] This section was substituted for the original section 37 by section 25 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words " a ryot " were substituted for the words " an occupancy ryot " and the words " apply to " were substituted for the words " institute a suit before " by section 26 (i), *ibid.*

[3] These words were substituted for the words " In any suit instituted under this section " by section 26, *ibid.*

[4] This section was substituted for the original section 39 by section 27 *ibid.*

(Chapter III.—General provisions relating to the rates of rent payable by ryots.)

Provided that nothing in this section shall in respect of pending suits affect the provisions of rule 1 of Order XXIII of the Code of Civil Procedure, 1908.] Central Act V of 1908.

Remission of rent by application.

[1] [39-A. (1) Notwithstanding anything contained in this Act, where the rent of any land has been enhanced under section 30 or commuted under section 40 or has been settled under Chapter XI, a ryot may present an application before the Collector for the remission of the rent payable by him during any particular revenue year on the ground that the average local prices of staple food-crops in the taluk or zamindari division during the twelve months ending with the 31st March of that revenue year were lower by not less than $18\frac{3}{4}$ per cent than the average prices on which rent in regard to such land was partly or wholly based :

Provided that, where after a commutation under section 40 or a settlement of rents under Chapter XI, the rent of the land has been enhanced or reduced under the provisions of clauses (i), (ii) or (iv) of section 30 or of section 38, regard shall be had to the prices on which such enhancement or reduction has been wholly or partly based.

(2) The rent after remission shall bear to the rent lawfully payable for the time being, the same proportion as the average prices during the twelve months ending with the 31st March of the revenue year, in respect of which such remission of rent is claimed, bear to the average prices, on the basis of which the rent has been previously fixed :

Provided that the rent after remission shall not be less than the rent payable by the ryot before the enhancement made under section 30.

(3) No application under sub-section (1) shall be maintainable unless sixty days' notice in writing has previously been sent to the landholder by registered post on or before the 30th day of April of the revenue year in respect of which remission of rent is claimed specifying—

(*a*) the names and addresses of the applicants ;

(*b*) the extent and description of the holding or holdings in respect of which remission is claimed, if such application does not relate to an entire village ;

(*c*) the cause of action for the relief claimed ; and

(*d*) the relief claimed.

(4) The application shall be made before the 1st day of September of the revenue year following that in respect of which the remission of rent is claimed and shall not be liable to be dismissed on the mere ground that such rent had been previously or subsequently paid or realized.

[1] Section 39-A was inserted by section 2 of the Madras Estates Land (Amendment) Act, 1936 (Madras Act VI of 1936).

(Chapter III.—General provisions relating to the rates of rent payable by ryots.)

(5) The pendency of an application under sub-section (1) or of an appeal under sub-section (7) shall not by itself debar a landholder from recovering the rent lawfully payable for the time being from the ryot, but the Collector may stay proceedings for the recovery of such portion of such rent on such terms as he may deem fit. In doing so, the Collector may direct the payment of the remaining portion of the rent to the landholder or his authorized agent in the presence of the Collector or any officer authorized by him and within such time as the Collector may fix.

(6) On the making of an application under sub-section (1) the Collector shall after enquiry in accordance with the rules made under this Act, determine the amount of the remission to be granted to the ryot.

(7) The order of the Collector under this section shall be final subject to the result of an appeal to the District Collector to be preferred within thirty days of the date of the Collector's order and shall not be questioned in any civil court.

(8) If, within thirty days from the date of the original order or from the date of the order passed on appeal by the District Collector, as the case may be, granting remission, the landholder fails either to refund to the applicant or applicants or to adjust towards any rent due in respect of the holding or holdings covered by the application from the applicant or applicants, the whole or any portion of the rent remitted, the applicant or applicants concerned may apply to the Collector for the recovery of the amount or balance due together with interest at six per cent per annum from the date of the order granting remission. On such application, the Collector may, after satisfying himself that the amount or balance is still due, proceed to recover the same as an arrear of land revenue.

(9) The District Collector shall, in the month of April of every year, publish in the District Gazette and at each taluk office, lists of average market prices of staple food-crops in each taluk for the twelve complete months preceding such publication and such lists shall, in any enquiry under this section, be conclusive evidence of the prices of such crops in such locality at such time :

Provided that a reasonable deduction may be made for the cost of carting the crops to the market.]

Commutation of rent.

Commutation by suit of rent payable in kind.

40. [1][(1) Where for any land in his holding a ryot pays rent in kind or on the estimated value of a portion of the

[1] These sub-sections were substituted for the original sub-sections (1) and (2) by section 28 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

crop, or at rates varying with the crop, whether in cash or in kind, or partly in one of these ways and partly in another, or partly in one or more of these ways and partly in cash, either the ryot or the landholder may apply to the Collector to have the rent on the holding commuted to a definite money rent.

(2) On such application, the Collector shall pass an order declaring the sum to be paid as money rent in lieu of rent in kind or otherwise. The commutation shall take effect from the beginning of the revenue year next after the date of such order.]

(3) In making the determination the Collector shall have due regard to each of the following considerations :—

(*a*) the average value of the rent actually accrued due to the landholder [1][during the ten years preceding the date of application] other than the years which the [2][State Government] may notify to be or to have been famine years in respect of any local area or, if the value for such period cannot be ascertained, during any shorter period for which evidence may be available excluding famine years ;

(*b*) the money rent payable by [3][ryots] for land of a similar description and with similar advantages in the same village or neighbouring villages [3][or where there are none such, in the village of a neighbouring taluk] ; and

(*c*) improvements effected by the landholder or the ryot in respect of the holding, and the rules laid down in section 32.

Prohibition against enhancement or reduction of rent for twenty years after commutation.

41. (1) Where the rent of a holding has been commuted under section 40, it shall not, except on the grounds specified in clauses (ii) and (iii) of section 30 or on the ground of a subsequent alteration of the area of the holding, be enhanced for twenty years, nor shall it be reduced for twenty years save on the ground of alteration in the area of the holding or on the ground specified in clauses (*a*) and (*b*) of sub-section (1) of section 38.

(2) The said period of twenty years shall be counted from the date on which the commutation takes effect.

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[1] These words were substituted for the words " during the preceding ten years " by section 28 (ii) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[3] The word " ryots " was substituted for the words " occupancy ryots " and the words " or where there are none such in the village of a neighbouring taluk " were inserted by section 28 (iii) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

(Chapter III.—General provisions relating to the rates of rent payable by ryots.)

Alteration of rent with area.

Alteration of rent in respect of alteration in area.

42. (1) Every ryot shall—

(*a*) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to the holding of land which having previously belonged to the holding was lost by diluvion or otherwise without any reduction of the rent being made ; and

(*b*) be entitled to a reduction of rent in respect of any deficiency proved to exist in the area of his holding as compared with the area for which rent has been previously paid by him unless it is proved that the deficiency is due to the loss of land which was added to the area of the holding by alluvion or otherwise and that an addition has not been made to the rent in respect of the addition to such area.

[1](2) [* * * * * *] In cases of dispute, no alteration of the amount of rent under this section shall be allowed except under the order of the Collector upon application made to him for that purpose by the landholder or the ryot concerned.

[2][(3) Notwithstanding anything contained in sub-section (2), where by agreement in writing the rent is fixed in proportion to the area or where by agreement in writing the rent is fixed on the basis of an assumed area and the agreement provides for the alteration of the rent when the actual area is found to vary from the assumed area, it shall be lawful for the landholder or the ryot to enforce an increase or decrease of the rent, as the case may be, in consequence of an increase or decrease of area measured in the same unit.]

[3][**43.** * * * *.]

Rules for the determination of alteration of rent with area.

44. [4][1) Upon an application under sub-section (2) of section 42 being made, or in proceedings in which it is claimed to enforce an increase or decrease of rent as provided in sub-section (3) of that section, the Collector shall determine the area for which rent has previously been paid and the amount, if any, to be added to or deducted from the rent.]

(2) In determining the area for which rent has been previously paid, the Collector shall have regard to each of the following considerations :—

(*a*) the origin and conditions of the occupancy—for instance, whether the rent was a consolidated rent for the entire holding ;

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[1] The words " Provided that " were omitted by section 29 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Sub-section (3) was added by section 29 (ii), *ibid.*

[3] Section 43 was omitted by section 30, *ibid.*

[4] This sub-section was substituted for the original sub-section (1) by section 31, *ibid.*

(Chapter III.—General provisions relating to the rates of rent payable by ryots.)

(*b*) any reason which may have led the landholder to permit the ryot to hold the additional land whether in consideration of an addition to his total rent or otherwise ;

(*c*) any reason which may have led the ryot to consent to hold a reduced area without a corresponding reduction in his rent ;

Explanation.—In determining whether the landholder has permitted the ryot to hold the additional land or whether the ryot has consented to hold the reduced area without a corresponding reduction in rent, the Collector may take into consideration the length of time during which the occupancy has lasted without dispute as to rent or area ; and

(*d* the length of the measure used or in local use at the tim · of the origin of the occupancy as compared with that used or in local use at the time of the application.

(3) In determining the amount to be added to the rent, the Collector shall have regard to the rates payable by ryots for lands of a similar description and with similar advantages in the village or neighbouring villages, and shall not in any case fix any rent which in the circumstances of the case is unfair or inequitable.

(4) When the landholder or ryot is unable to indicate any particular land as held in excess, the rent to be added on account of the excess area may be calculated at the average rate of rent paid on all the lands of the holding exclusive of such excess area.

(5) In case of abatement the deduction from the rent shall be proportionate to the diminution in the total yearly produce of the holding or, in default of satisfactory proof thereof, the deduction shall be proportionate to the diminution in the area of the holding.

(6) An addition to or abatement of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

[1][**45.** * * *.]

[2][* * * * * * .]

[2][**46 to 49.** * * *.]

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[1] Section 45 was omitted by section 32 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Sections 46 to 49 and the heading thereto were omitted by section 33, *ibid.*

CHAPTER IV.

[1] [PATTAS] AND [1] [MUCHILIKAS.]

Application of Chapter IV to all ryots.

50. (1) The provisions of this chapter shall apply to all ryots [2][* * * * * *].

Right of ryot and landholder to obtain patta and muchilika.

(2) Every ryot shall be entitled to call upon his landholder to grant him a [1] [patta] for any current revenue year and every landholder shall be entitled to call upon his ryot to give him a [1] [muchilika] for any current revenue year in exchange for a [1] [patta].

[3] [(3) The ryot shall at his request be entitled to have all the lands in his possession in a single village entered in a single patta.]

Contents of patta and muchilika.

51. (1) The [1] [patta] shall contain the names of the parties; the local description and extent of the land; the rate or amount and nature of the rent payable thereon, according as it may be payable in money, in kind or by a share of the produce; [4] [any sum payable by the ryot on account of pasturage fees or fishery rents;] any local tax, cess or fee or charge payable with the rent according to law or usage having the force of law; the period or periods at which [5] [they shall be paid], the date of the [1] [patta] and all special terms by which it is intended that the parties shall be bound and shall be signed by the landholder. The [1] [muchilika] may, at the option of the landholder, be a counterpart of the [1] [patta] or a simple engagement to hold according to its terms and shall be signed by the ryot.

(2) Any stipulation in restraint of cultivation or of harvesting by a ryot or for the giving up of possession of his land by [6] [a ryot] at any specified time shall be void and of no effect.

Period for which patta and muchilikas may be exchanged.

52. (1) [1] [Pattas] and [1] [muchilikas] may be exchanged for periods of one or more revenue years, but no landholder shall be bound to tender, and no ryot to accept, a [1] [patta] for a period of more than one revenue year.

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[1] The words "patta", "pattas", "muchilika" and "muchilikas" were substituted respectively for the words "puttah", "puttahs", "muchalka" and "muchalkas" by section 2 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "with a permanent right of occupancy and also so far as may be to ryots holding old waste under a landholder otherwise than under a lease in writing" were omitted by section 34 (i), *ibid.*

[3] Sub-section (3) was added by section 34 (ii), *ibid.*

[4] These words were inserted by section 35, *ibid.*

[5] The words "they shall be paid" were substituted for the words "such rent, local tax, cess, fee or charge is to be paid" by *ibid.*

[6] These words were substituted for the words "an occupancy ryot" by *ibid.*

(2) Subject to the provisions of sub-section (3), the tender of a [1] [patta] or [1] [muchilika] and the demand for a [1] [muchilika] or [1] [patta] shall be made within twelve months of the commencement of the period to which the [1] [patta] or [1] [muchilika] relates.

(3) [1] [Pattas] and [1] [muchilikas] accepted, exchanged or decreed for any revenue year shall remain in force until the commencement of the revenue year for which fresh [1] [pattas] and [1] [muchilikas] are accepted, exchanged or decreed; provided that where a [1] [patta] or [1] [muchilika] has continued in force for more revenue years than one, no fresh [1] [patta] or [1] [muchilika] for the same holding shall take effect until the commencement of the revenue year next succeeding that in which it is tendered, accepted, exchanged or decreed.

[2] [**53.** * * * .]

Patta to be tendered.

[3] [**54.** The tender of a [1] [patta] may be made to the ryot [4] [by delivering a copy to him or to some adult male member of his family or to his authorized agent or when such service cannot be effected, by affixing a copy in the village chavadi or, if there is no village chavadi, in some conspicuous place in the village and by sending a copy by post to the ryot at his last known place of residence], or, if the Collector on the application of the landholder shall so permit, in respect of any estate or any portion of an estate, by filing it in the office of the Collector or such other officer as the [5] [State Government] may by general or special order direct, and, if so filed, the Collector or such officer shall cause the [1] [patta] to be served on the ryot in the aforesaid manner at the cost of the landholder [6] (and shall forthwith give intimation of the date of service to the landholder by post.)]

[3] [* * * .]

Suit to obtain patta.

55. When a landholder, for three months after demand, fails to grant a [1] [patta] in such terms as the ryot is entitled to receive, it shall be lawful for the ryot to sue for such a [1] [patta] before the Collector.

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[1] The words " patta ", " pattas ", "muchilika " and " muchilikas " were substituted respectively for the words " puttah ", " puttahs ", " muchalka " and " muchalkas " by section 2 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Section 53 was omitted by section 36, *ibid.*

[3] Sub-section (1) of section 54 was renumbered as section 54 and sub-section (2) was omitted by section 37 (1), *ibid.*

[4] These words were substituted for the words and figures " in the manner provided for the service of notice under sub-section (2) of section 78 " by section 37 (2), *ibid.*

[5] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[6] The words " and shall forthwith give intimation of the date of service to the landholder by post " were inserted by section 37 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

(Chapter IV.—Pattas and Muchilikas. Chapter V.—Payment and Arrears of rent.)

Suit to enforce acceptance of patta.

56. When a ryot for one month after tender fails to accept the [1][patta] tendered to him and to give a [1][muchilika] in exchange, the landholder may sue before the Collector to enforce acceptance of such [1][patta].

Procedure in adjudication of suits to enforce grant or acceptance of patta.

[2][**57.** In adjudicating suits under sections 55 and 56 the Collector shall proceed as herein mentioned. If he finds that the defendant is not bound to grant or accept a patta he shall dismiss the suit. If he finds that the defendant is bound to grant or accept a patta he shall decide whether the patta demanded or tendered is a proper one and if he so finds shall pass a decree, directing the defendant to grant the patta in exchange for a muchilika or accept the patta and give amuchilika in exchange. If the Collector finds that the patta demanded or tendered is not a proper one he shall decide what the terms of the patta should be and shall embody such terms in the decree passed by him and the decree shall be of the same force and effect as if a patta and muchilika had been exchanged.]

Pattas and muchilikas to be signed and registered by the karnam.

58. The karnam of the village in which the holding is situated shall regularly sign and register [1][pattas] and [1][muchilikas] in respect of the holding.

CHAPTER V.

Payment and Arrears of Rent.

Payment of rent in instalments.

59. Rent shall be payable in instalments according to agreement or in the absence of agreement according to established usage.

Arrear of rent.

60. An instalment of rent not paid on the day on which it falls due, becomes on the following day an arrear of rent.

Interest on arrears.

61. [3][Subject to the provisions of this Act, an arrear of rent shall bear simple interest] at the rate of one-half per centum per mensem from the date on which the arrear fell due until it is liquidated.

Right of ryot to receipt for rent.

[4][**62.** (1) Every ryot who makes a payment on account of rent shall be entitled to obtain forthwith a written receipt for the amount paid by him signed by the landholder or other person authorized to receive the rent.

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[1] The words "patta", "pattas", "muchilika," and "muchilikas" were substituted respectively for the words "pttah", "puttahs", "muchalka" and "muchalkas" by section 2 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] This section was substituted for the original section 57 by section 38, *ibid.*

[3] These words were substituted for the words "An arrear shall bear simple interest" by section 39, *ibid.*

[4] This section was substituted for the original section 62 by section 40, *ibid.*

(2) The landholder or other person so authorized shall prepare and retain a counterfoil of the receipt.]

Contents of valid receipt.

63. (1) The receipt shall specify such of the following particulars as can be specified by the landholder at the time of payment, namely,—

(*a*) the names of the payer and payee ;

(*b*) the name of the village in which the holding is situated ;

(*c*) the amount paid ;

(*d*) a description of the holding on account of which the rent has been paid ;

(*e*) the year and instalment to which the payment has been credited ;

(*f*) whether the payment has been accepted as a payment in full, or only on account ; and

(*g*) the date on which the rent is paid :

Provided that the [1] [State Government] may prescribe from time to time a modified form either generally or for any particular local area or class of cases.

(2) If a receipt does not contain substantially the particulars required by this section it may be presumed to be an acquittance in full of all arrears of rent up to the date on which the receipt was given.

Credit of payments on account of instalments.

64. (1) When a ryot makes a payment on account of rent, he may declare the year and the instalment to which he wishes the payment to be credited, and the payment shall be credited accordingly.

(2) If he does not make any such declaration, the payment may at the option of the landholder be credited on account of any arrear not barred by limitation.

Compensation for withholding receipt.

65. [2][If a landholder or other person receiving rent on his behalf refuses without reasonable cause] to deliver to a ryot a receipt [3][as required by] sections 62 and 63 for any rent paid by him, or to credit the rent paid to the year and instalment to which the ryot has requested the payment to be credited, the ryot shall be entitled to [4][recover from the landholder on application made to the Collector for that purpose] compensation not exceeding double the amount or value of the rent paid.

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] These words were substituted for the words " If a landholder without reasonable cause refuses " by section 41 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[3] These words were substituted for the words " in accordance with the provisions of " by *ibid.*

[4] These words were substituted for the words " recover from him by a suit before the Collector " by *ibid.*

(*Chapter V.—Payment and Arrears of Rent.*)

Place of payment.

66. The payment shall, except in cases where a ryot is allowed under this Act to deposit his rent, be made at the landholder's village office, or at such other convenient place within five miles of the village in which the holding is situated as may be appointed in that behalf by the landholder :

Provided that the ryots may pay their rent to the landholder by postal money-orders under rules which the [1] [State Government] may prescribe :

Provided also that when rent is payable in kind it shall be delivered at the landholder's granary in the village in which the holding is situated or at such other granary within ten miles of the village as may be provided in that behalf by the landholder [2] [but the landholder shall bear the cost of transport from the threshing-floor to the granary if the distance exceeds three miles].

Effect of receipt of person recognized or nominated as landholder for receiving rent.

67. Where rent is due to a landholder, the receipt for any payment on that account of the person recognized or nominated under [3] [clause (5) of section 3] as landholder for the purpose of receiving rent [4] [or of the person authorized to receive the rent] shall be a sufficient discharge for the rent, and the person liable for the rent shall not be entitled to plead in defence to a claim by a person so recognized or nominated that the rent is due to a third person. But nothing in this section shall affect any remedy which any such third person may have against the landholder so recognized or nominated.

Deposit of Rent.

Application to deposit rent.

68. (1) In any of the following cases in which rent is due and is payable in money, namely,—

(*a*) when a ryot tenders money on account of rent due from him, and the landholder refuses to receive it or refuses to grant a receipt for it ; or

(*b*) when the rent is payable to two or more persons jointly, and the ryot is unable to obtain the joint receipt of the said persons for the money, and no person has been empowered to receive the rent on their behalf ; or

(*c*) when two or more persons severally claim the right to collect the rent or when the ryot entertains a bona fide doubt as to who is entitled to receive the rent which has become due ;

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] These words were added by section 42 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[3] This expression was substituted for the expression " Sub-section (5) of section 3 " by section 3 (1) of and the Second Schedule to the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

[4] These words were inserted by section 43 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

the ryot may present to the [1][Collector], an application in writing for permission to deposit in the office of [1][the Collector] the full amount of rent then due [2][together with interest, if any, payable thereon].

(2) The application shall contain a statement of the grounds on which it is made; and shall state the item or items to which the payment is to be credited and also—

in case (*a*), the name of the person to whose credit the deposit is to be entered;

in case (*b*), the names of the persons to whom the rent is due, or of so many of them as the ryot may be able to specify; and

in case (*c*), the name of the person or persons to whom the rent was last paid and of the person or persons now claiming it.

[3][* * * * * *]

Receipt of deposit by Collector to be a valid acquittance.

69. (1) If [4][on a perusal of the application] it appears to the [5][Collector] [6][to whom it is made] that the applicant is entitled under that section to deposit the rent, he shall receive the amount and shall give a receipt for it.

(2) A receipt given under this section shall operate as an acquittance for the amount of the rent deposited as aforesaid, in the same manner and to the same extent as if that amount of rent had been received—

in [7][case (*a*) of sub-section (1) of section 68], by the person specified in the application as the person to to whose credit the deposit was to be entered;

in [7][case (*b*) of that sub-section], by the persons to whom the rent is due; and

in [7][case (*c*) of that sub-section], by the person entitled to receive the rent.

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[1] The words "Collector" and "the Collector" were substituted respectively for the words "Collector or such other officer as the Local Government may appoint" and "the said Collector or other officer" by section 3 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] These words were added by section 44 (i), *ibid.*

[3] Sub-section (3) was omitted by section 44 (ii), *ibid.*

[4] These words were inserted by section 45 (i), *ibid.*

[5] This word was substituted for the words "Collector or other officer" by section 3 (2), *ibid.*

[6] These words were substituted for the words "to whom an application is made under the last foregoing section" by section 45 (i) (*b*), *ibid.*

[7] The words, figures and letters "case (*a*) of sub-section (1) of section 68", "case (*b*) of that sub-section" and "case (*c*) of that sub-section" were substituted respectively for the words and letters "case (*a*) of the last foregoing section", "case (*b*) of that section" and "case (*c*) of that section" by section 45, *ibid.*

(Chapter V.—Payment and Arrears of Rent.)

[1] [**70.** The Collector receiving the deposit shall forthwith cause to be affixed, in a conspicuous place at his office and in the vernacular language of the district, a notification of the receipt of such deposit containing a statement of all material particulars and shall also— Notification of receipt of deposit of rent.

in case (*a*) of sub-section (1) of section 68, cause a notice of the receipt of the deposit to be served on the person specified in the application as the person to whose credit the deposit was to be entered ;

in case (*b*) of that sub-section, cause a notice of the receipt of the deposit to be posted at the landholders' village office or residence and in some conspicuous place in the village in which the holding is situated ; and

in case (*c*) of that sub-section, cause a like notice to be served on every person who, the Collector has reason to believe, claims or is entitled to the deposit.]

71. (1) The [2] [Collector] may pay the amount of the deposit to any person appearing to him to be entitled to the same, or may, if he thinks fit, and shall, if deposit has been made under clause (*c*) of sub-section (1) of section 68, and there has been no joint application for payment by the disputing parties, retain the amount pending the decision of the Civil Court as to the person so entitled : Payment or refund of deposit.

[3] [Provided that no order for payment shall be made within fifteen days from the date on which the notification referred to in section 70 was affixed in the office of the Collector receiving the deposit.]

(2) The payment less the money-order commission may be made by postal money-order under such rules as the [4] [State Government] may prescribe.

(3) If no payment is made under this section before the expiration of three years from the date on which a deposit is made, the amount deposited may, in the absence of any order of a competent court to the contrary, be repaid to the depositor upon his application and on his returning the receipt given by the [2] [Collector] with whom the rent was deposited or on his producing such other evidence of his having made the deposit as the Collector may consider sufficient.

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[1] This section was substituted for the original section 70 by section 46 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] This word was substituted for the words " Collector or other officer " by section 3 (2), *ibid.*

[3] The proviso was added by section 47, *ibid.*

[4] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for "Provincial " by the Adaptation Order of 1950.

Nothing in this section shall prevent any person entitled to receive the amount of any such deposit from recovering the same by suit in a Civil Court from a person to whom it has been paid under this section.

Barring of suits.

72. No suit or other proceeding shall be instituted against the [1] [Government] or against any officer of the [2] [Government], in respect of anything done by a [3] [Collector] regarding a deposit under sections 68 to 71.

Appraisement and Division of Produce.

Rights and liabilities as to possession of crop.

73. (1) Where rent is taken by appraisement of the standing crop the ryot shall be entitled to the exclusive possession of the crop.

(2) Where rent is taken by division of the produce, the ryot shall be entitled to the exclusive possession of the whole produce until it is divided, but shall not be entitled to remove any portion of the produce from the threshing-floor at such a time or in such a manner as to prevent the due division thereof at the proper time.

(3) In either case, the ryot shall be entitled to cut and harvest the produce in due course of husbandry without any interference on the part of the landholder. But before commencing to cut or gather the crop the ryot shall give reasonable intimation to the landholder or his authorized agent of his intention to do so.

(4) If the ryot cuts or removes any portion of the crop or of the produce at such a time or in such a manner as to prevent the due appraisement or division thereof, the produce may be deemed to have been as full as the fullest crop of the same description in the neighbourhood on similar land for that harvest.

Application to Collector for appraisement, division or determination of produce.

74. Where rent is taken by appraisement of the crop or division of the produce—

(*a*) if either the landholder or the ryot fails to attend, either personally or by agent, at the proper time for making the appraisement or the division; or

(*b*) if there is a dispute as to the quantity and value of the crop or as to what is a full crop under sub-section (4) of section 73, or as to the division of the produce,

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[1] The word "Crown" was substituted for the words "Secretary of State for India in Council" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[2] The word "Crown" was substituted for the word "Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[3] This word was substituted for the words "Collector or other officer" by section 3 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

an application may be presented by either party to the Collector requesting that an officer be deputed to make the division or appraisement or determination.

With the application the applicant shall deposit such fee as may be prescribed by the [1][State Government] in rules made in this behalf.

Procedure on such application.

[2][**75.** (1) On receiving such application, the Collector shall depute an officer by whom such division or appraisement or determination of rent shall be made and issue notice to the applicant and to the opposite party to appear before the said officer on the date and at the time and place specified in the notice together with a person who is a resident of the neighbourhood to serve as an assessor to assist in the division of the produce or appraisement or determination of the crop.

(2) If the opposite party objects that the rent is not taken by division or appraisement or that no rent is payable, the officer deputed shall record the objection but shall proceed as hereinafter provided and transmit the objection when submitting his award to the Collector under sub-section (6).

(3) If, on or before the date appointed in the notice issued under sub-section (1), the dispute has been adjusted, the officer shall not take any further proceedings under this section.

(4) If either party fails to attend or to secure the attendance of an assessor as required by the notice referred to in sub-section (1), the officer deputed shall nominate an assessor on his behalf.

(5) The officer deputed shall record, and in making the award shall have regard to, the opinions of the assessors but shall not be bound thereby.

(6) In the case of a division of the produce, if the parties agree to the award, the division shall be made accordingly. If the parties do not agree to such division, and in all cases in which the rent is payable by appraisement of the standing crop, or where the value of a full crop has to be determined, the officer deputed shall make an estimate of the produce or crop and determine the rent payable. He shall then deliver his award after notice to the parties and submit it with a report of his proceedings to the Collector.

(7) The parties shall be at liberty to file objections to the award within fifteen days after the day on which the award was delivered.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] This section was substituted for the original section 75 by section 48 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

(*Chapter V.—Payment and Arrears of Rent. Chapter VI.—Recovery of Rent.*)

(8) (*a*) The Collector shall hear such objections and the objections, if any, recorded under sub-section (2) and pass orders thereon after such further inquiry, if any, as may appear to him to be necessary.

(*b*) If an objection is raised that the rent is not payable by division or appraisement, or that no rent is payable, and the Collector upholds the objection, he shall set aside the award.

(*c*) If the objection is disallowed or if any other objection is raised or if no objection is raised, the Collector, except when the assessors agree with the officer deputed in which case the award shall, subject to the provisions of clause (*e*), be final, may confirm the award or may, after giving an opportunity to the parties to be heard, modify the award as he thinks fit.

(*d*) The Collector's order for the payment of rent and costs, if any, shall be final unless an objection of the nature described in clause (*b*) has been raised and shall be enforceable as a decree for arrears of rent.

(*e*) Where an objection of the nature described in clause (*b*) has been raised, the Collector's decision thereon shall be subject to an appeal to the District Court. Such appeal shall be presented within thirty days from the date of the Collector's decision.

(9) In any proceedings under this section the Collector may by order prohibit the removal of the produce until appraisement or division has been effected.]

Power of entry.

76. For the purpose of making the division and appraisement, the officer deputed, with his assessors, may enter upon any land on which or into any building in which the produce is.

CHAPTER VI.

RECOVERY OF RENT BY SUIT OR BY DISTRAINT AND SALE OF MOVABLE PROPERTY OR OF THE HOLDING.

Modes of recovery of arrears of rent.

[**77.** Subject to the provisions hereinafter contained, a landholder shall be entitled to recover any arrear of rent by a suit before the Collector, by distraint and sale of movable property or by sale of a ryot's holding.

Explanation.—Movable property for the purpose of this section shall include growing crops and the produce of land or of trees in the defaulter's holding.]

[1] This section was substituted for the original section 77 by section 49 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

(Chapter VI.—Recovery of Rent.)

Conditions for recovery of arrears by distraint of movable property or sale of holding.

[1][77-A. No landholder shall have power to proceed against a ryot for the recovery of rent by distraint and sale of his movable property or by sale of his holding unless he shall have exchanged a patta and muchilika with such ryot or tendered him such a patta as he was bound to accept or unless a valid patta or muchilika continues in force : in the case of distraint and sale of movable property, the exchange of patta and muchilika or tender of such a patta as the ryot was bound to accept shall be not less than fifteen days prior to the distraint.

Enforceability of partially correct patta.

[77-B. A patta tendered by a landholder which is partially but not entirely correct shall nevertheless be enforceable to the extent to which it is found to be correct.

Provision where tendered patta includes claim exceeding that due under previous engagement.

[77-C. Where the patta tendered for a revenue year includes any claim for rent in excess of the amount due under a previous subsisting engagement, all proceedings for the recovery of the rent by distraint and sale of movable property or by sale of the holding shall, on payment of such amount, be stopped and not proceeded with further. The claim for the balance shall be enforceable only by a suit before the Collector :

Provided that nothing contained in this section shall apply to the case referred to in sub-section (3) of section 42, in so far as the excess is claimed to be due to an increase in such area.

Arrears which may be enforced by distraint.

[77-D. A landholder shall not be entitled to distrain, except for an arrear of rent which has accrued due within the twelve months preceding the demand under section 78.

Prohibition of distraint where decree for rent has been obtained.

[77-E. Where the landholder has sued for any arrear of rent and obtained a decree he shall have no right to distrain movable property for such arrear or to bring the holding to sale therefor under sections 111 to 131 and all proceedings to sell the holding for such arrear taken before the passing of the decree shall be stopped and not proceeded with further.

Articles exempted from distraint.

[77-F. The following articles shall not be distrained for arrears of rent :—

(1) The necessary wearing apparel, cooking vessels, beds and bedding of the defaulter, and such personal ornaments of a woman as in accordance with religious usage cannot be parted with by her ;

(2) his ploughs and implements of husbandry, ploughing cattle and manure stocked by the ryot or cultivator and such seed grain as may be necessary for the due cultivation of the holding in the ensuing year.]

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[1] Sections 77-A to 77-F were inserted by section 50 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

(Chapter VI.—Recovery of Rent.)

Distraint how to be effected.

78. (1) Before or at the time when a distraint is made the distrainer, who may be either the landholder or his duly authorized agent, shall serve on the defaulter a written demand specifying the amount of the arrear together with an account exhibiting the grounds on which the demand is made.

(2) The demand and account shall be dated and signed by the distrainer and shall within one year from the date on which the arrear became due be served upon the defaulter by delivering a copy to him or to some adult male member of his family at his usual place of abode provided that it is in the neighbourhood of the land to which the distress refers or to his authorized agent, or, when such service cannot be effected, by affixing a copy of the notice on some conspicuous part of the land to which it refers. The demand shall set forth—

(*a*) the amount of the arrear due, with interest, if any ;

(*b*) the holding in respect of which it is due ;

(*c*) the period in respect of which it is due.

Distraint to be proportionate to arrear and list of property to be served on owner and copy sent to sale officer.

79. (1) Unless the demand is immediately satisfied, the distrainer may distrain property to the amount of the arrear [1] [with interest] and the costs of the distress and shall forthwith prepare a list or description of the said property, date and sign the same, and without delay serve it on the defaulter in the manner provided in the preceding section for the service of a written demand, and a copy of such list or description, together with a copy of the written demand and account, shall be sent by the distrainer within ten days of the service of the demand on the defaulter to the public officer hereinafter called the sale officer empowered under [2] [The Madras Rent and Revenue Sales Act, 1839] to sell property distrained for arrears.

Madras Act VII of 1839.

(2) [3] [If any person other than the defaulter notifies the distrainer that he is the cultivator or the owner of the property] a copy of the demand and of the list or description of the property shall in like manner be served on or [4] [delivered to such person in all cases in which the property distrained consists of—

(*a*) any crops or other products of the earth standing or ungathered on the holding ; and

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[1] These words were inserted by section 51 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] This expression was substituted for the expression " Madras Act VII of 1839 " by section 3 (1) of and the second Schedule to the Madras Repealing and Amending Act, 1951 (Madras Act. XIV of 1951).

[3] These words were substituted for the words " If the distrainer has notice that the cultivator is some person other than the defaulter " by section 51 (ii) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[4] This was substituted for the words " delivered to the cultivator " by section 51 (iii), *ibid.*

(*b*) any crops or other products of the earth which have grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing floor or place for treading out grain or the like, whether in the fields or in a homestead.]

Distrainer may procure police assistance.

80. A person authorized to distrain may apply to the nearest police station for such assistance as may be necessary to prevent any breach of the peace, and the authority to whom such application is made shall depute one or more police officers to be present at the time of such distress for such purpose.

Distress to be proportionate to arrears.

81. The distress shall not be excessive ; [1][* * * * * *] the value of the property distrained shall be as nearly as possible equal to the amount of the arrears due [1] [with interest] and costs of distress.

Time of distress.

82. Distress shall be made after sunrise and before sunset and not otherwise.

Right to reap and preserve produce.

83. (1) Standing crops and other ungathered produce may, notwithstanding the distraint, be tended, and after notice to the distrainer, be reaped and gathered by the owner of the crop.

(2) If the owner of the crop neglects to tend, reap or gather the said crop or produce, the distrainer may do so at the expense of the owner.

(3) The distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose ; the person so appointed shall store the same in some convenient place in the neighbourhood at the expense of the owner.

What places distrainer may force open.

84. It shall be lawful for the distrainer to force open any stable, cow-house, granary, godown, out-house or other building, and he may also enter any dwelling-house, the outer door of which may be open and may break open the door of any room in such dwelling-house for the purpose of distraining property belonging to a defaulter and kept therein ; provided always that it shall not be lawful for such distrainer to break open or enter any apartment in such dwelling-house appropriated for the zenana or residence of women, except as hereinafter provided.

Power to force open doors, and to enter zenana in presence of apolice officer.

85. When a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling-house, the outer door of which may be shut, or within any apartments appropriated to women, which by the usage of the country,

[1] The words " that is to say " were omitted and the words " with interest " were inserted by section 52 of the Madras Estates Land(Amendment) Act, 1934 (Madras Act VIII of 1934).

are considered private, such distrainer shall report the fact to the officer in charge of the nearest police station. Thereupon the officer in charge of the station shall send a police officer to the spot, in the presence of whom the distrainer may break open the outer door of such dwelling-house, and also the door of any room within the house except the zenana. The distrainer may also, in the presence of the police officer, after due notice given for the removal of women within the zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank, who, according to the customs of the country, cannot appear in public), enter the zenana apartments for the purpose of distraining the defaulter's property, if any, kept therein. If any such property be found, it shall immediately be removed from such apartments in order that they may be left free for the return of the former occupants.

Distrained cattle or goods not to be used.

86. The distrainer shall not work the bullocks or cattle or make use of the property distrained. He shall provide necessary food for cattle or other livestock, and the cost thereof shall be a charge against the defaulting ryot and shall be recoverable as a cost of the distress.

Withdrawal of distress on deposit, payment or furnishing of security.

87. (1) After a distress has been made under this Chapter and at any time before the date appointed for sale, the defaulter, the cultivator or the owner of the property may tender or pay the amount specified in the written demand under section 78 with subsequent interest and costs [1] [or the amount referred to in section 77-C] to the distrainer, or may furnish security to the satisfaction of the distrainer, whereupon the distrainer shall give a written acknowledgment of the tender, payment or security, and shall withdraw the distress forth with.

(2) If, at any time before the sale of the distrained property, the defaulter or cultivator or owner of the property distrained pays to the sale officer, the amount specified in the written demand under section 78 with subsequent interest and costs [1] [or the amount referred to in section 77-C], the sale officer shall grant a receipt for the same and shall withdraw the distress forthwith.

Liability of distrainer for loss of, or injury to, distrained property.

88. When property distrained may be stolen, lost, damaged or destroyed while in the keeping of the distrainer, by reason of his not having taken reasonable precautions for its preservation, the owner may sue the distrainer for damages before the Collector.

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[1] These words, figures and letter were inserted by section 53 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

(Chapter VI.—Recovery of Rent.)

Claim of third person to right or interest in distrained property.

89. A third person claiming a right or interest in any of the movable property under distraint may before the date of sale make an application to the Collector or sale officer and the Collector shall thereupon hold or cause to be held an immediate inquiry, and if he sees sufficient cause for doing so, may postpone the sale of such property. The Collector shall pass such order upon the claim as he shall deem fit.

Delivery of property fraudulently conveyed to prevent distress or forcibly or clandestinely removed after distraint.

90. When, after an application made by the distrainer, it is proved to the satisfaction of the Collector that,

(*a*) a defaulter has made a fraudulent conveyance of movable property to prevent distress for arrears,

(*b*) any person has forcibly or clandestinely taken away movable property once distrained,

the Collector shall pass an order directing that the property be restored or that its value be paid to the distrainer.

Suit against orders under sections 89 and 90.

[1] [**91.** Any person aggrieved by an order under section 89 or section 90 may institute a suit before the Civil Court within one year from the date of the order to establish the right which he claims to the property in dispute and for compensation.]

Application for sale.

92. (1) The distrainer shall within fifteen days from the date of the distraint apply to the sale officer for the sale of the property specified in the list or description mentioned in section 79.

(2) If no such application is made, the distraint on the property shall cease to be in force at the expiration of the said period of fifteen days.

Contents of application.

93. The application shall be in writing and shall specify the following particulars, namely,—

(*a*) The name and residence of the defaulter and in the case provided for in sub-section (2) of section 79, [2] [also of the person who notifies that he is the cultivator or the owner ;]

(*b*) the amount due ;

(*c*) the date of the distraint ; and

(*d*) the place in which the distrained property is.

Fee for service of notice.

94. Together with the application, the distrainer shall deliver to the sale officer the fee prescribed for the service of notice.

Procedure on receipt of application.

95. (1) Immediately on receipt of such application and fee, the sale officer shall send a copy of the application and of the list or description mentioned in section 79 to the Collector and shall serve a notice on the defaulter, requiring him either

[1] This section was substituted for the original section 91 by section 54 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] These words were substituted for the words "of the cultivator also" by section 55, *ibid*.

to pay the amount demanded, or to institute a suit before the Collector to contest the distraint within fifteen days from the date of the service of the notice.

(2) In the case provided for in sub-section (2) of section 79 similar notice shall be served on the cultivator [1] [or owner who may also file a suit before the Collector to contest the distraint within fifteen days from the date of the service of such notice.]

(3) The sale officer shall by order fix a date for the sale which shall not be less than fifteen days from the date of service of the notice under sub-section (1) or sub-section (2), as the case may be, and shall cause it to be proclaimed by beat of drum in the village where the distrained property is; he shall also post a copy of his order in some conspicuous place in the village [2] [and communicate it in person or by post to the defaulter and to the cultivator or owner.]

In fixing the date of sale, not less than seven days shall be allowed from the date of the aforesaid proclamation.

(4) The notice and proclamation shall specify—

(*a*) the property to be sold;

(*b*) the amount mentioned in the application under section 93; and

(*c*) the time and place at which the sale is to be held.

[3] [(5) If for any reason the sale officer is unable to hold the sale on the date fixed under sub-section (3), he may, by order, adjourn the sale to another day. Such order shall be proclaimed and posted in the village in the same manner as an order under sub-section (3). A copy of such order shall be delivered in person or sent by post to the defaulter and to the cultivator or owner.]

When sale may take place.

96. If the defaulting ryot or [4] [cultivator or owner aforesaid] does not, within fifteen days from the date of the service of the notice referred to in section 95, file a suit before the Collector to set aside the distress, or if such a suit is filed and is decided against him by the Collector and if the sale has not been countermanded or postponed under section 89, section 103, or section 104, the sale officer, unless the said demand, with such expenses of the distraint as are allowed by him, is discharged in full, shall proceed in the manner hereinafter described to sell the property or such part of it as may be necessary to satisfy the demand with the expenses of the distraint and the costs of the sale.

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[1] These words were added by section 56 (i) and (ii) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] These words were added by section 56 (i) and (ii), *ibid.*

[3] Sub-section (5) was added by section 56 (iii), *ibid.*

[4] These words were substituted for the words "cultivator aforesaid" by section 57, *ibid.*

Place of sale.

97. The sale shall ordinarily be held in the village where the property was distrained or is stored or at the nearest place of public resort if the sale officer is of opinion that the property is likely to sell to better advantage there. In any case, the distrainer shall be bound to produce the property at the time and place of sale, and the cost of the transport thereof shall be considered part of the cost of distress.

Sale of perishable articles.

98. Notwithstanding anything contained in this Chapter, crops or products which are in their nature speedily perishable shall be sold as early as possible by the distrainer, and the sale-proceeds shall be deposited with the sale officer.

When crop may be sold.

99. (1) Crops or products which from their nature admit of being stored shall not be sold before they are reaped or gathered and are ready for storing.

(2) Crops or products which from their nature do not admit of being stored may be sold before they are reaped or gathered, and the purchaser shall be entitled to enter on the land by himself or by any person appointed by him in this behalf and do all that is necessary for the purpose of tending and reaping or gathering them.

Manner of sale.

100. The property shall be sold by public auction, in one or more lots as the sale officer may think advisable, and if the demand with the costs of distress and sale is satisfied by the sale of a portion of the property the distress shall be immediately withdrawn with respect to the remainder.

Postponement of sale.

[**101.** If, on the property being put up for sale, a fair price in the estimation of the sale officer is not offered for it and if the defaulter, cultivator or owner of the property or a person authorized to act in his behalf or the distrainer applies to have the sale postponed until the next day or the next market day if a market is held at or near the place of sale, the sale shall be postponed until the next day or until the next market day, as the case may be, and shall then be completed, whatever price may be offered for the property.]

Payment of purchase-money.

102. The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer holding the sale directs, and in default of such payment the property shall be put up again and sold and any deficiency in price which may happen on such second sale and all expenses attending such second sale shall be [2] [reported to the Collector by the sale officer and the

[1] This section was substituted for the original section 101 by section 58 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] These words were substituted for the words "certified to the Collector by the sale officer and shall at the instance either of the distrainer, the defaulter or the cultivator, without prejudice to any other remedy which he may have, be recoverable in a suit before the Collector from the defaulting purchaser" by section 59, *ibid*.

Collector may, on application by the distrainer, the defaulter, the cultivator or the owner and after notice to the defaulting purchaser and hearing his objections, if any, certify the amount recoverable from him and the amount so certified by the Collector shall be recoverable from the defaulting purchaser at the instance either of the distrainer, the defaulter, the cultivator or the owner as if the Collector had passed a decree therefor.]

Any sum recovered under this section from the defaulting purchaser shall be dealt with under section 106 as if it were proceeds of the sale.

Obligation to report irregularity in distraining.

103. The sale officer shall bring to the notice of the Collector any material irregularity committed by the distrainer under colour of this Act, and may in such case postpone the sale pending the Collector's order.

Effect of irregularity in distraining.

104. (1) If it shall come to the knowledge of the Collector that the distrainer has not served on the ryot a written demand as required by section 78, or has failed to serve the list or description mentioned in section 79 [1][* * * * * * *] or that the distress was excessive, the Collector may either order the sale to proceed, or direct the issue of another notice or proclamation of sale, in which case he shall order that the costs of the resale shall be borne by the distrainer.

(2) If the Collector finds that the distraint is vexatious or groundless, he [2] [shall order] the restoration of the distrained property.

Certificate to be given to purchaser.

105. When the purchase-money has been paid in full, the sale officer shall deliver the property to the purchaser and shall give him a certificate signed by himself, describing the property purchased and the price paid.

Disposal of proceeds of sale.

106. (1) From the proceeds of every sale of distrained property under this Act, the sale officer shall make a deduction at a rate not exceeding one anna in the rupee on account of the costs of the sale, and shall remit the amount so deducted to the Tahsildar.

(2) He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distraint, and of the issue of the notice and proclamation of the sale mentioned in section 95 to such amount as, after examining the statement of expenses furnished by the distrainer, he thinks proper to allow.

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[1] The words and figures " or has failed to apply to the sale officer for an order under section 92 " were omitted by section 60 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] These words were substituted for the words " may order " by section 60 (ii), *ibid.*

(3) The remainder shall be applied to the [1][discharge of the amount for which the distraint was made with subsequent interest up to the date of payment.]

(4) The surplus (if any) shall be delivered to the person whose property has been sold and he shall receive from the sale officer a receipt for any arrears discharged from the proceeds of sale.

(5) If either the distrainer, or the owner of the distrained property, shall be dissatisfied with the sale officer's decision, the Collector shall, on an application being made to him by either party, determine the expenses incurred in distraining the property and bringing it to sale.

Prohibition against bidding for or purchase of property by sale officer or subordinate.

107. No officer holding a sale of property under this Act and no person employed by or subordinate to such officer, shall either directly or indirectly bid for, acquire or attempt to acquire any interest in any property sold at such sale.

Right of tenant or cultivator to deduct from rent amount paid for his landlord.

108. (1) When an arrear of rent is realized from a tenant or cultivator by proceedings in distraint by any person other than his immediate landlord the tenant or cultivator shall be entitled to deduct the amount so realized from any rent payable by him to such landlord, and such landlord, if he is not the defaulter, shall in like manner be entitled to deduct the same amount from any rent payable by him to his landlord, and so on until the defaulter is reached.

(2) Nothing in this section shall affect the right of any tenant or cultivator making a payment under section 87 to institute a suit in a Civil Court for the recovery from the defaulter of any portion of the amount paid which he has not deducted under this section.

Conflict between distress by landholder and attachment by court.

109. When any conflict arises between the right of a landholder distraining produce over which he has a first charge under sub-section (1) of section 5 and the right of a person claiming under an attachment by a Civil Court, the right of the landholder shall prevail; but if the property is sold by a Collector in consequence of such landholder's distress the surplus proceeds of the sale shall not be paid under section 106 to the person whose property has been sold, but shall be deposited in the Court from which the order of attachment issued.

Tender of amount under protest to be deemed valid.

110. A tender of the amount of the arrears of rent claimed by the landholder shall be deemed valid though made under protest, and on such tender being made the distrainer shall be bound to refrain from distraining or selling the property, and

[1] These words were substituted for the words "discharge of the arrear for which the distraint was made" by section 61 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

if a distraint has been made to release the property distrained provided that when the amount so tendered is received, the fact that the payment was made under protest shall be stated in the receipt given to the person making the payment.

Sale of Ryot's Holding.

Sale of holding.

111. When an arrear is not paid within the revenue year in which it accrued due, it shall be lawful for the landholder to sell the holding or any part thereof, in the manner hereinafter provided, in satisfaction of the arrear and of interest thereon and of costs, if any, of the sale.

Notice of intention to sell.

[1] **[112.** (1)] When the landholder to whom an arrear is due intends to avail himself of the powers given by the last preceding section, he shall serve on the defaulter through the Collector a written notice stating the amount due for arrears, interest and costs, if any, the period for which and the holding in respect of which it is due, and informing him that if he does not pay the amount or [2] [institute a suit] before the Collector contesting the right of sale within thirty days from the date of service of the notice, the said holding or any part thereof specified in the said notice will be sold. Such notice shall be [3] [delivered to the Collector] within one year from the end of the revenue year for which the arrear is due.

[4] [Four copies of the notice together with the fee for service thereof shall be sent to the Collector who shall cause service to be effected upon the defaulter in the manner provided in sub-section (2) of section 78 for the service of a written demand. A copy of the notice shall also be sent by post to the defaulter.]

Copies of the notice shall in every case be posted at conspicuous places on the land to which it relates and in the village where the land is situated.

[5] [(2) Any person having an interest in the holding o part thereof who would be affected by its sale may institute a suit before the Collector contesting the right of sale within the period fixed in sub-section (1).]

Intimation of date of service to landholder.

113. Intimation of the date of service shall forthwith be given to the landholder by post.

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[1] Section 112 was renumbered as sub-section (1) of section 112 by section 62 (1) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] These words were substituted for the words "file a suit" by *ibid.*

[3] These words were substituted for the words "sent to the Collector" by *ibid.*

[4] The second paragraph of section 112 (1) was substituted for the original paragraph by *ibid.*

[5] Sub-section (2) of section 112 was added by section 62 (2), *ibid.*

(Chapter VI.—Recovery of Rent.)

Application for sale.

[1] [**114.** If the amount specified in the notice under section 112 has not been paid and if no suit contesting the right of sale has been instituted before the Collector within thirty days from the date of service of the said notice, or if such suit has been instituted and the defaulting ryot has been declared to be liable to pay the amount in whole or in part, the landholder may apply to the Collector for sale.]

Period of limitation for application under section 114.

115. (1) If no suit has been instituted, such application shall be made within forty-five days of the posting by the Collector of intimation of service under section 113.

(2) If a suit has been instituted and it has been disposed of against the defaulter or withdrawn, such application shall be made within thirty days of the date of the disposal or withdrawal.

Proclamation of sale and appointment of selling officer.

[2] [**116.** (1) On receipt of such application, the Collector shall issue notice to the parties and after hearing such of them as appear shall determine the extent of land to be sold, the lots if any in which it shall be sold, the order in which the lots shall be sold and the estimated value of each lot and shall order the sale, appoint an officer to conduct the sale, draw up the proclamation of sale and direct copies thereof in the vernacular of the taluk to be posted in his office and in the taluk office :

Provided that no such lot shall, except with the consent of the landholder, be less than a revenue field.

(2) The proclamation shall specify—

(*a*) (i) the land to be sold ;

(ii) the lots, if any, in which it shall be sold ;

(iii) the order in which the lots shall be sold ;

(iv) the estimated value of each lot ; and

(v) the rent or rates of rent payable in respect of each lot ;

(*b*) subject to the provisions of section 77-C, the amount specified in the written notice under section 112 or where it has been declared by the Collector in a suit contesting the right of sale instituted under sub-section (1) or sub-section (2) of section 112 that the ryot is liable to pay only a part of the amount specified in such notice, such part, together in each case with costs and interest, if any, up to the date of the order of the sale ;

(*c*) any encumbrance subject to wh ch the land is liable to be sold ; and

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[1] This section was substituted for the original section 114 by section 63 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] This section was substituted for the original section 116 by section 64, *ibid.*

(*d*) every other thing which the Collector considers material for the purchaser to know in order to judge the nature and value of the land.]

Duty of selling officer.

[1] [**117.** (1) The selling officer shall, by order, fix the date, time and place of the sale and direct a copy of the order in the vernacular of the taluk to be posted in the taluk office and cause the contents of the order and of the proclamation of sale to be published by beat of drum in the village where the holding is situated. He shall also post a copy of the order and of the proclamation of sale in the village chavadi or if there is no village chavadi, in a conspicuous place in the village and shall send a copy of his order and of the proclamation of sale to the defaulter by post. A copy of the order and proclamation shall be published in the District Gazette.

(2) In fixing the date of sale not less than thirty days shall be allowed from the date on which publication by beat of drum is made as aforesaid.

(3) If, for any reason, the selling officer is unable to hold the sale on the date fixed under sub-section (1), he may from time to time by order adjourn the sale to another day. Such order shall be published and posted in the village in the same manner as an order under sub-section (1). A copy of such order shall be delivered to the defaulter in person or sent to him by post.]

Sale when amount due is not discharged in full.

118. If the [2] [amount mentioned in the proclamation of sale] is not discharged in full, the selling officer shall proceed in the manner hereinafter described to sell the property or such part of it as may be necessary to satisfy the demand with the expenses and the costs of the sale.

Place of sale.

119. The sale shall ordinarily be held in the village where the holding is situated or at the nearest place of public resort if the selling officer is of opinion that the property is likely to sell to better advantage there.

Manner of sale.

120. The property shall be sold by public auction [3] [in one or more lots as may be specified in the proclamation of sale ;] [4] [* * * * *] and if the demand with [5] [the expenses and the costs of the sale] is satisfied by the sale of a portion of the property, the sale shall be immediately stopped with respect to the remainder.

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[1] This section was substituted for the original section 117 by section 65 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] These words were substituted for the words "said amount" by section 66, *ibid.*

[3] These words were substituted for the words "in one or more lots as the selling officer may think advisable" by section 67, *ibid.*

[4] The words "but no such lot shall, except with the consent of the landholder be less than a revenue field" were omitted by *ibid.*

[5] These words were substituted for the words "the costs of distress and sale" by *ibid.*

(Chapter VI.—Recovery of Rent.)

[1][120-A. (1) A landholder who has brought to sale a ryot's holding or part thereof for an arrear of rent may bid for or purchase the same. Right of landholder to bid for holding and set off amounts due to him.

(2) Where the landholder purchases, the purchase-money and the amount due to him as mentioned in the proclamation may be set off one against the other.]

121. If, on the property being put up for sale, a fair price in the estimation of the selling officer is not offered for it, and if the defaulter or a person authorized to act in his behalf, or the landholder applies to have the sale postponed until the next day, the sale shall be postponed until that day and shall then be completed, whatever price may be offered for the property. Postponement of sale.

122. Every such sale shall be stopped, if the landholder withdraws his application for sale or if before the lot is knocked down, the amount mentioned in the proclamation, and [2][the expenses and the costs of the sale] are tendered to the selling officer, or proof is given to his satisfaction that such amount has been paid to the Collector. [3][The selling officer shall receive the amount tendered and transmit the same forthwith to the Collector.] Stoppage of sale.

[4][**123.** (1) The price of every lot, or where the landholder is the purchaser, the balance of such price after deducting any amount which he sets off under sub-section (2) of section 120-A, or the poundage payable by him under clause (*b*) of sub-section (1) of section 127, whichever is greater, shall be paid to the selling officer at the time of the sale, or as soon thereafter as he may direct. Payment of purchase-money and notification of sale.

(2) In default of such payment the property shall be put up again and sold and any deficiency in price, which may happen on such second sale and all expenses attending such second sale including the poundage payable in respect thereof, shall be certified to the Collector by the selling officer and the Collector may, on application by the landholder or the defaulter and after notice to the defaulting purchaser and hearing his objections, if any, certify the amount recoverable from him and the amount so certified by the Collector shall be recoverable from the defaulting purchaser at the instance either of the landholder or the defaulter, as if the Collector had passed a decree therefor.

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[1] Section 120-A was inserted by section 68 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] These words were substituted for the words "costs of the sale" by section 69, *ibid.*

[3] This sentence was added by *ibid.*

[4] This section was substituted for the original section 123 by section 70 *ibid.*

Any sum recovered under this sub-section from the defaulting purchaser shall be dealt with under section 127, as if it were proceeds of the sale.

(3) As soon as the payment referred to in sub-section (1) is made, a notification shall be published in the issue of the District Gazette immediately following, giving particulars of—

(i) the date of sale,

(ii) the lands sold,

(iii) the price for which they were sold, and

(iv) the names of the purchaser, defaulter and landholder concerned.]

Transmission of purchase money to Collector and grant of certificate of sale.

[1] [**124.** (1) All moneys received by the selling officer under sub-section (1) of section 123 shall forthwith be transmitted to the Collector.

(2) On the expiration of forty-five days from the date of sale as specified in the notification under sub-section (3) of section 123, the Collector shall, if no application has been made to set aside the sale under section 131 or if such application has been made and rejected, grant a certificate of sale to the purchaser stating the property sold, the name of the purchaser, the date of the sale and the price at which the property was purchased and shall place him in possession of the property sold.

(3) The Collector shall also cause a copy of the certificate to be posted in the village chavadi of the village in which the lands are situated or, if there is no village chavadi, in a conspicuous place in the village. A copy of the certificate shall also be published in the District Gazette.]

Encumbrances.

125. When a holding or part of a holding is sold for arrears due in respect thereof, the purchaser shall take, subject to any right or interest which the ryot has created therein with the landholder's permission in writing registered and subject also to any encumbrances created before the passing of this Act [2] [but not subject to any arrears of rent due in respect of the holding before the date of sale or to interest on such arrears, whether a decree has been obtained or not for such arrears or interest.]

Extent of holding to be brought to sale.

126. The portion of the holding brought to sale by the landholder shall be, as nearly as possible, equal in value to the amount of arrears due and costs.

Rules for disposal of sale-proceeds.

127. [3][(1) (*a*) From the proceeds of every sale of a holding or part of a holding under this Act, the Collector shall make

[1] This section was substituted for the original section 124 by section 71 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] These words were added by section 72, *ibid.*

[3] Original section 127 was renumbered as sub-section (2) of section 127 and new sub-section (1) was inserted by section 73 (1), *ibid.*

a deduction at a rate not exceeding one anna in the rupee for poundage.

(*b*) If the landholder purchases the property and sets off any sum due to him against the purchase-money, he shall pay the amount chargeable for poundage at the rate specified in clause (*a*).

(*c*) The amount deducted or paid on account of poundage shall form part of the costs and expenses of the sale.]

[1][(2)] [2] [In disposing of the balance of the proceeds of the sale] the following rules [3] [shall, subject to the provisions of sub-section (2) of section 120-A, be observed], that is to say :—

(*a*) there shall first be paid to the landholder the costs incurred by him in bringing the holding to sale ;

(*b*) there shall, in the next place, be paid to the landholder the amount due to him for arrears and interest up to date of payment ;

(*c*) if there remains a balance after these sums have been paid, there shall be paid to the landholder therefrom any [4] [arrears of rent and interest due in respect of the holding between the date of the notice under section 112] and the date of the sale and the defaulter shall receive from the selling officer a receipt for the amount so paid ; if the defaulter disputes the landholder's right to receive any sum under this clause, the Collector shall register the dispute as a suit and shall proceed to determine it :

Provided that no payment shall be made to the landholder under clauses (*a*), (*b*) and (*c*) [5] [until after the grant of a certificate of sale under sub-section (2) of section 124].

(*d*) the balance (if any) remaining after the payment of the amount mentioned in clause (*c*) shall, subject to the order of any Civil Court to the contrary, be paid to the defaulter on his application, after the expiration of three months from the date of the sale.

Right of person having interest in the holding on payment of amount due.

128. (1) When a proclamation has been made for the sale of a holding or part of a holding and any person having an interest therein which would be affected by the sale, pays to

[1] Original section 127 was renumbered as sub-section (2) of section 127 and new sub-section (1) was inserted by section 73 (1) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] These words were substituted for the words "In disposing of the proceeds of a sale of a holding under this chapter" by section 73 (2) (*a*), *ibid.*

[3] These words, figures and letter were substituted for the words "shall be observed" by *ibid.*

[4] These words and figures were substituted for the words "rent which may have fallen due to him in respect of the holding between the date of application or suit" by section 73 (2) (*b*), *ibid.*

[5] These words and figures were substituted for the words "of this section until after the expiration of thirty days from the date of sale" by section 73 (2) (*c*), *ibid.*

the Collector or the selling officer the amount requisite under section 122 to prevent the sale,—

(*a*) the amount so paid by him shall be deemed to be a debt bearing interest at six per centum per annum and charged upon the holding ; and

(*b*) such charge shall take priority of every other charge on the holding, other than a charge for arrear of rent and any prior charge under this section.

(2) Nothing in this section shall affect any other remedy to which any such person would be entitled.

Right of tenant or sub-tenant to deduct from rent amount paid for ryot.

129. Where a proclamation has been made for the sale of a holding or part of a holding of a defaulting ryot, and any tenant or sub-tenant thereof, whose interest would be affected by the sale, pays to the Collector or to the selling officer the amount requisite under section 122 to prevent the sale, he may, in addition to any other remedy provided for him by law, deduct the whole or any portion of the amount so paid from any rent payable by him to his immediate landlord ; and that landlord may in like manner deduct the amount so deducted from any rent payable by him to his immediate landlord and so on, until the defaulter is reached.

[1] [**130.*** * * *.]

Application to set aside sale on deposit of purchase money.

[2] [**131.** (1) When a ryot's holding or part thereof is sold for an arrear due thereon, the defaulting ryot, or any person having a right or interest therein affected by the sale, may apply to the Collector to have the sale set aside on his depositing with that officer—

(*a*) for payment to the Government, the amount deducted for poundage under clause (*a*) of sub-section (1) of section 127 ;

(*b*) for payment to the landholder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, together with subsequent costs, if any incurred by the landholder in bringing the holding to sale, and including, where the landholder is the purchaser, the amount paid by him for poundage under clause (*b*) of sub-section (1) of section 127 less any amount which may, since the date of the proclamation of sale, have been received by the landholder ; and

(*c*) for payment to the purchaser, a sum equal to five per centum of the purchase money.

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[1] Section 130 was omitted by section 74 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] This section was substituted for the original section 131 by section 75, *ibid.*

(2) If such deposit is made the Collector shall pass an order setting aside the sale, and directing repayment of the purchase-money and the five per centum to the purchaser :

Provided that where the landholder is the purchaser, only the five per centum and the balance of the purchase-money after deducting the amount which he sets off under sub-section (2) of section 120-A shall be directed to be repaid to him as purchaser.]

Application of this Chapter to execution of decrees for arrears of rent.

132. The provisions of this Chapter shall be applicable as far as may be, to the execution by a Revenue Court of any decree for arrears of rent.

Collector executing decree may grant defaulter time to pay.

133. The Collector, (*a*) in executing a decree for arrears in a suit under this Act or (*b*) on the application of the defaulter whose holding is to be sold under the provisions of this Chapter, may, before issuing an order for the sale of the holding or part thereof and on the defaulter's giving security for the amount of the debt with costs and interest to the satisfaction of the Collector, allow the defaulter time in which to pay the amount due, provided that any period or the aggregate of any periods so allowed shall not exceed two months unless the [1][State Government] by general or special order allow a longer period

Extension of application of provisions of this Chapter.

134. The provisions contained in this Chapter for the recovery of rent from a ryot by distraint and sale of movable property shall apply, as far as may be, to—

(1) the recovery of rent by a landholder from a tenant of private land in the estate, provided [2] [pattas] and [2] [muchilikas] have been exchanged between them ; and

(2) the recovery of rent by a landowner under ryotwari settlement with [3] [the Government] or in any way subject to the payment of land revenue direct to [4] [the Government] or any other registered holder of land in proprietary right from a tenant from whom he has taken a written agreement specifying the rent to be paid.

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the words " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] The words " pattas " and " muchilikas " were substituted, respectively, for the words " puttahs " and " muchalkas " by section 2 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[3] The words " the Crown " were substituted for the words " the Government " by the Adaptation Order of 1937 and the word " Government " was substituted for " Crown " by the Adaptation Order of 1950.

[4] The words " the Crown " were substituted for the word " Government " by the Adaptation Order of 1937 and the word " Government " was substituted for " Crown ", by *ibid.*

(*Chapter VI.—Recovery of Rent. Chapter VII.—Recovery of Excess Payments. Chapter VIII.—Irrigation Works.*)

[1] [The provisions contained in this Chapter for the recovery of rent from a ryot by a suit before the Collector, shall apply, as far as may be, to the recovery of rent by a landholder from a ryot holding, under a written engagement specifying the rent payable, a tree or trees apart from the land on which they stand in the same village as that in which he holds lands as a ryot.]

[2][CHAPTER VII.

RECOVERY OF EXCESS PAYMENTS.

Prohibition of payments in addition to rent.

135. A landholder shall not be entitled to take, receive, or exact from his ryots, as such, under any name or under any pretence anything in addition to the rent lawfully payable. All stipulations and reservations for such additional payment shall be void.

Recovery of such payment and penalties.

136. Every ryot from whom as such, anything has been taken, received or exacted by the landholder in addition to the rent lawfully payable, shall be entitled to recover by a suit before the Collector the amount or value of what has been so taken, received or exacted, and where anything has been exacted, also such sum by way of penalty as the Collector thinks fit, not exceeding one hundred rupees or, when double such amount or value exceeds one hundred rupees, not exceeding double that amount or value.

[2] CHAPTER VIII.

IRRIGATION WORKS.

'ayacut.'

136-A. In this Chapter—

(1) the 'ayacut' of an irrigation work shall mean all the lands which are entitled to irrigation under the irrigation work;

'major irrigation work.'

(2) 'major irrigation work' shall mean an irrigation work of which the ayacut is 200 acres or more in extent and any other irrigation work notified by the District Collector under section 136-B; and

'minor irrigation work.'

(3) 'minor irrigation work' shall mean any irrigation work which is not a major irrigation work.

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[1] This paragraph was added by section 76 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Chapters VII and VIII were substituted for the original Chapters VII and VIII, respectively, by section 77, *ibid.*

(*Chapter VIII.—Irrigation Works.*)

Notification of certain works as major irrigation works.

136-B. The District Collector may, by notification in the District Gazette, declare that any irrigation work shall be deemed to be, or to be part of, a major irrigation work for the purposes of this Chapter, notwithstanding that its ayacut is less than 200 acres.

(*a*) on the ground that the work is so situated that any railway may appear liable to be injured from the escape or overflow of water therefrom ; or

(*b*) for any other special reason.

The ground or reason for every declaration under this section shall be specified in the notification.

Applications to whom to be made.

136-C. Applications under this Chapter shall be made—

(*a*) to the District Collector in the case of a major irrigation work, and

(*b*) to the Revenue Divisional Officer in the case of a minor irrigation work.

Inquiry on application.

136-D. The officer to whom an application is made under this Chapter may himself inquire into the application or depute an officer subordinate to him not below the rank of a Deputy Tahsildar to make the inquiry. The officer making the inquiry shall fix a date and the time and place at which the inquiry will take place and cause to be served on the respondent or respondents a copy of the application and a notice to show cause why the order prayed for should not issue. The notice shall also be posted in the village or villages where the land irrigated is situated and shall also be published in the manner prescribed so as to give notice to the ryots holding lands in the ayacut of the irrigation work. On the day fixed in the notice or, on any other date to which the inquiry may be adjourned, the officer making the inquiry shall hear the applicant or applicants, the respondent or respondents and any ryots interested who may attend, and may take evidence and make such further inquiry as he may think fit. If the inquiry is made by an officer other than the officer to whom the application is made, he shall make a report thereon to the officer to whom the application is made and shall send him the records of the enquiry ; and the officer to whom the application is made shall pass his order after considering the report and hearing the objections, if any, of the parties.

Determination of ayacut.

137. The landholder in whose estate an irrigation work is situated or any ryot or ryots holding land irrigable from the irrigation work may apply for an order determining what lands are or should be included in the ayacut of such irrigation work. On inquiry or report under section 136-D, the officer to whom the application is made shall pass an order—

(*a*) determining what lands are or should be included in the ayacut of such irrigation work, and

(*b*) classifying any such lands as 'irrigated' or 'garden' if they are not already so classified, and

(*c*) determining the rate of rent to be paid on the lands so classified.

Sanction to extend ayacut.

137-A. Where the ayacut of an irrigation work in an estate has been determined by an order passed under section 137 or in a record of rights published under Chapter XI, the landholder of the estate may apply for sanction to extend such ayacut by the inclusion in it of the land or lands mentioned in the application. On inquiry or report under section 136-D the officer to whom the application is made may pass an order—

(*a*) sanctioning the extension of the ayacut by the inclusion of such lands mentioned in the application as he finds can be included in the ayacut without prejudice to the irrigation in the customary manner of the lands already included in the ayacut, and

(*b*) reclassifying the land newly included in the ayacut under clause (*a*) as 'irrigated' or 'garden' and

(*c*) determining the rate of rent to be paid on lands so reclassified.

Prohibition of unauthorized extension of ayacut.

137-B. Where the ayacut of an irrigation work in an estate has been determined by an order passed under section 137 or by a record of rights published under Chapter XI, the landholder shall not be entitled to extend such ayacut except in pursuance of an order under section 137-A.

Reclassification of irrigated or garden land as unirrigated.

137-C. Any ryot holding land under a landholder as irrigated or garden land in the ayacut of an irrigation work, may apply for an order for the reclassification of such land as unirrigated land, on the ground that it has not been possible for a period of not less than six consecutive years immediately prior to the date of application, to irrigate such land from such irrigation work. If on inquiry or report under section 136-D the officer to whom the application is made finds that it has not been possible for a period of not less than six consecutive years immediately prior to the date of application, to irrigate such land or any portion of it from the irrigation work in the ayacut of which it is included, he may pass an order reclassifying such land or portion as unirrigated and determining the rate of rent to be paid on the land or portion so reclassified.

Determination of rate of rent on reclassified lands.

137-D. (1) In determining the rate of rent under clause (*c*) of section 137, clause (*c*) of section 137-A or section 137-C, the officer to whom the application is made shall have due regard to the rate of rent for similar lands, if any, with similar advantages in the neighbourhood.

(2) Nothing contained in Chapters III and XI shall be deemed to affect the powers of the said officer to determine the rates of rent under any of the provisions referred to in sub-section (1).

Application for repair of irrigation work.

138. Any ryot or ryots holding land under a landholder in the ayacut of an irrigation work and

(*a*) paying not less than one-fourth of the rent of the ayacut, or

(*b*) holding not less than one-fourth of the extent of the ayacut, or

(*c*) depositing such amount not exceeding two hundred rupees in the case of a major irrigation work and one hundred rupees in the case of a minor irrigation work as may be demanded by way of security

may apply for the issue of an order for the repair of the work if the work is in such a state of disrepair as materially to prejudice the irrigation of the lands dependent upon it and if the landholder upon his or their application has refused or neglected to execute the necessary repairs. The application shall state in sufficient detail the facts on which the claim of the applicant or applicants is based and the general nature of the defects in the irrigation work. Any ryot or ryots intending to file an application under this section and any person or persons authorized by him or them shall have free access to the irrigation work concerned to enable him or them to state these facts and the general nature of these defects.

Explanation.—Repairs shall not include petty works such as yearly clearance of supply and distribution channels or minor repairs which the ryots are by law or custom bound to carry out.

Inquiry and order on such application.

139. (1) (*a*) If on inquiry or report under section 136-D, the officer to whom the application is made is satisfied—

(i) that the irrigation work is in such a state of disrepair as materially to prejudice the irrigation of the lands dependent upon it ; and

(ii) that the state of disrepair is not due exclusively to the wrongful acts of the ryots or to omission to make such petty works or minor repairs as the ryots are by law or custom bound to carry out,

he may pass an order specifying the works necessary for the restoration of the irrigation work to efficiency and the estimated cost of the same and requiring the landholder to execute the said works within a specified time which may be extended from time to time by the officer. In passing an order specifying or extending the time, the officer shall consider any representations made by the ryot or ryots who made the application and pay due regard to the capacity of the estate

of such landholder to bear within such time, the cost of such works in addition to the cost of other works, if any, ordered by such officer or by any other officer to be executed by such landholder or undertaken by such landholder of his own accord.

(*b*) If on such inquiry or report, the officer to whom the application is made is satisfied—

(i) that the irrigation work is not in such a state of disrepair as materially to prejudice the irrigation of the lands dependent upon it ; or

(ii) that the state of disrepair is due exclusively to the wrongful acts of the ryots or to omission to make such petty works or minor repairs as the ryots are by law or custom bound to carry out, he shall dismiss the application.

(2) (*a*) The costs incurred by the applicant or applicants or by the landholder in connexion with the application, shall be in the discretion of the officer to whom the application is made and he shall have full power to determine by whom and to what extent such costs are to be paid :

Provided that the amount awarded as costs shall be reasonable and that the amount awarded to the landholder shall in no case exceed two hundred rupees in the case of a major irrigation work and one hundred rupees in the case of a minor irrigation work.

(*b*) Where any security has been deposited under section 138 the officer aforesaid may, if he awards costs to the landholder under clause (*a*), pay such costs out of the amount of such security and where such officer is satisfied that the application was frivolous, he may also declare the whole or part of the balance, if any, of the said amount to be forfeited to the Government.

(3) An order passed under clause (*a*) of sub-section (1) shall declare that, if the landholder refuses or within the time specified in such order as extended from time to time under that clause, fails to execute the works, he shall deposit the amount of the estimated cost within a time to be specified in that behalf. If the landholder fails to make the deposit within the time so specified or within such further time as may be allowed, the officer passing the order shall recover the same from the landholder as if it were an arrear of land revenue.

(4) On the estimated cost being deposited or recovered as aforesaid, the officer shall get the works executed as soon as may be by such persons and in such manner as he may direct and meet the cost of such works from the amount deposited or recovered as aforesaid.

(5) If the amount of the estimated cost deposited by or recovered from the landholder as aforesaid is found insufficient for the completion of the works, the officer may require

the landholder to deposit such further sum as may be necessary for the purpose within a specified time and failing such deposit shall recover the same as if it were an arrear of land revenue and the amount so deposited or recovered shall be utilized by the officer for meeting the cost of the works.

(6) If the amount deposited or recovered from the landholder under this section exceeds the cost of the works, such excess shall be refunded to him.

Explanation.—For the purposes of this section, the cost of any works shall include the cost, if any, of the inspection of the same after completion.

Liability of dasabandam inamdar.

140. (1) Where the default to maintain the irrigation work in good repair is that of a holder of a dasabandam inam granted prior to the permanent settlement and confirmed but not enfranchised by the British Government, the holder of the estate served by the irrigation work shall be entitled to call on the holder of the dasabandam inam to execute the works specified in the order passed under clause (*a*) of sub-section (1) of section 139 or to pay for their execution and on his default to do either, such holder of the estate may execute the said works as directed in the order and recover the cost of the same from the dasabandam inamdar by suit before the Collector. The amount of the decree may be recovered as if it were an arrear of rent.

(2) Nothing contained in sub-section (1) shall be deemed to affect the right of such holder of the estate to resume such inam for proper cause.

Temporary reduction of rent pending completion of works of repair.

141. At the time of passing an order under clause (*a*) of sub-section (1) of section 139 or at any time subsequent thereto, the officer passing the order may, on the application of any ryot or ryots holding lands in the ayacut of the irrigation work in respect of which such order is passed, direct such temporary reduction of rent as he thinks fair and equitable until the works specified in such order have been completed.

Irrigation works serving partly on estate and partly Government land.

142. (1) If the irrigation work serves partly an estate and partly Government land, the repair as aforesaid shall invariably be executed by the District Collector, and after notice to the landholder giving him an opportunity to examine the stated cost of the repair and urge his objection thereto, if any, the charges incurred shall be divided between [1] (the State Government) and the landholder in proportion to the extent of land belonging [2] (to the Government) which is registered as

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] The words " to the Crown " were substituted for the words " to Government " by the Adaptation Order of 1937 and the word " Government " was substituted for " Crown " by *ibid.*

entitled to irrigation from the work and the extent of land belonging to the landholder for which he is entitled free of separate charge to irrigation from the work. The portion due by the landholder shall be recoverable as an arrear of land revenue.

(2) Nothing in sub-section (1) shall apply to irrigation works belonging to the [1] (Government) which the [1] (Government) [2] (is) bound to maintain, and from which the landholder is entitled to a supply of water free of charge.

(3) A landholder who is dissatisfied with an order of the District Collector under this section may sue in a Civil Court to have it set aside or modified on either of the following grounds :—

(*a*) that he is under no obligation to repair the irrigation work concerned ;

(*b*) that the proportion of the charge which he is liable to pay under sub-section (1) has been wrongly calculated.

If the order is set aside or modified, the Court shall direct the refund of any amount found to have been improperly levied.

Irrigation works serving more than one estate.

143. (1) The provisions of this Chapter shall apply, so far as may be, to an irrigation work serving more than one estate.

(2) Where an irrigation work serves more than one estate the [3] (State Government) may make rules for—

(*a*) regulating the procedure to be adopted ;

(*b*) determining and adjusting the rights and liabilities of the landholders and the ryots concerned ; and

(*c*) providing for the recovery of the cost of carrying out the repairs.

Bar on jurisdiction of civil courts.

144. No Civil Court shall issue an injunction or save as provided under section 142 entertain a suit regarding the proceedings of a District Collector or Revenue Divisional Officer under this Chapter.

CHAPTER IX.

Subdivision and Transfer of Holdings and Estates.

Recognition of transfer or devolution of holding or portion of a holding.

[4] [**145.** (1) Whenever a holding or any portion thereof is transferred or whenever the same devolves by operation of

[1] The word " Crown " was substituted for the word " Government " by the Adaptation Order of 1937 and the word " Government " was substituted for " Crown " by the Adaptation Order of 1950.

[2] This word was substituted for the word " are " by the Adaptation Order of 1937.

[3] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] Section 145 was substituted for the original sections 145 and 146 by section 78 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

law, the landholder shall, subject to the provisions of this section, be bound to recognize such transfer or devolution and enter into a fresh engagement or engagements as hereinafter provided.

(2) Where a holding or any portion thereof is transferred by the act of a ryot, the landholder on receiving notice thereof in writing from the transferor and the transferee shall recognize the transfer.

Any person presenting for registration any document transferring a holding or any portion thereof shall present therewith a notice in writing signed by the transferor and transferee, and addressed to the landholder asking for recognition of the transfer, and shall also pay to the registering officer such fee as the [1] (State Government) may prescribe for the transmission of such notice to the landholder. The landholder shall recognize the transfer on receipt of the said notice.

(3) Where there is a binding adjudication as to the fact and validity of a transfer of a holding or any portion thereof in any proceeding before a Civil or Revenue Court to which both the transferor and the transferee are parties, the landholder shall, on the production of a certified copy of the judgment, decree or order in such proceeding, be bound to recognize such transfer.

(4) Where a holding or any portion thereof is transferred in pursuance of a decree or order of a Civil Court, or by a sale for arrears of rent, or for arrears of Government revenue, or for any demand recoverable as arrears of Government revenue or as arrears of rent, such transfer shall be recognized by the landholder on production of a certified copy of the decree or order establishing the transfer, or in cases in which the transfer is effected by sale under the order of any Court or public officer, on production of the sale certificate or a certified copy thereof.

(5) Where a holding or any portion thereof devolves by operation of law, the landholder on receiving notice thereof in writing from the person on whom the holding has devolved shall recognize the devolution.

(6) (*a*) Where either the transferor or the transferee fails to join the other in applying to the landholder for recognition of the transfer, the transferee or the transferor, or where any dispute arises as to the person or persons on whom the holding or portion thereof has devolved, any person

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

claiming by devolution the holding or portion, may apply to the Collector for an order certifying the transfer or the devolution as the case may be.

(*b*) The Collector, after giving notice to the transferor or transferee or other person interested and after making such inquiry as he thinks fit as to the fact and validity of the transfer or as to the person or persons on whom the holding or portion has devolved, may pass an order certifying the transfer or devolution as the case may be. On production of a certified copy of such order the landholder shall be bound to recognize the transfer or the devolution.

(*c*) Nothing in this sub-section shall bar any suit in a Civil Court for establishing or setting aside any transfer or for enforcing any claim based on a devolution by operation of law.

(7) Where the landholder has recognized the transfer or devolution of any holding or portion thereof under the foregoing provisions of this section—

(i) in case the transfer or devolution is of the entire holding, the landholder shall be bound to enter into a separate engagement with the transferee or the person on whom the holding devolves, or if there is more than one such transferee or person, into a joint engagement with such transferees or persons ;

(ii) in case the transfer or devolution is of a portion of the holding and the portion is not defined by metes and bounds, the landholder shall be bound to enter into a joint engagement with the transferor and the transferee and the other co-sharers, if any, or with the person or persons on whom the portion of the holding devolves and the other co-sharers, if any :

Provided that if the transferor has ceased to possess any interest in the holding, his name may with his consent be omitted from such engagement ;

(iii) in case the transfer or devolution is of a portion of the holding and the portion is defined by metes and bounds the landholder shall be bound to enter into separate engagements with the holders of the subdivisions :

Provided that the landholder shall not be bound to enter into such engagements unless each of the subdivisions conforms to the rules made by the [1][State Government] in that behalf.

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

(8) In any case falling under the proviso to clause (iii) of sub-section (7), where the landholder does not enter into separate engagements with the holders of the subdivisions he shall be bound to enter into an engagement with them jointly.

(9) The distribution of rent between the subdivisions referred to in clause (iii) of sub-section (7) shall be made in the first instance by the landholder.

If the distribution of rents be delayed for over six months or is not assented to by any of the parties concerned, the Collector shall on application by any such party make such distribution and the same shall be binding on the landholder and on all the other parties concerned.

(10) The transfer of a holding or the recognition thereof by the landholder shall in no way affect the charge on the holding or the lands comprised therein for the rent which accrued due thereon prior to the date of the transfer or its or their liability therefor.

(11) The provisions of this section shall apply to the partition of a holding among the co-sharers as if it were a transfer.]

[1][**146.** * * *].

147. (1) All acts and proceedings commenced or had under this Act against the transferor or the co-sharers [2][prior to—

Proceedings against transferor or co-sharer prior to notice to be valid against transferee or co-sharer.

(*a*) the giving of the notice under sub-section (2) of section 145, or

(*b*) the production of the certified copy of the judgment, decree or order under sub-section (3) of that section, or

(*c*) the production of the certified copy of the decree or order or the sale certificate or certified copy thereof under sub-section (4) of that section, or

(*d*) the production of a certified copy of the order under sub-section (6) of that section

in so far as] such acts and proceedings affect or purport to affect the land on which the arrear is due, the crops growing thereon and the products gathered therefrom, shall as against the transferee or co-sharer be as valid and effectual as if such acts and proceedings had been commenced or had against

[1] Section 145 was substituted for the original sections 145 and 146 by section 78 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] These words, figures and letters were substituted for the words and figures " prior to the giving of notice under section 146 or prior to the production of such copy of the decree or order or certificate of sale under section 146 in so far as " by section 79 (i), *ibid.*

the transferee or co-sharer himself, and he had been the defaulter.

(2) [1] [Any notice required under section 145 may also be served] in the manner provided by sub-section (2) of section 78.

(3) The transferor or co-sharer shall not, until notice is given in writing as aforesaid [2][or until the document referred to in clause (*b*), (*c*) or (*d*) of sub-section (1), as the case may be, is produced] by reason only of the transfer or division, cease to be subject to any of the liabilities attaching to him as a ryot.

Notice of transfer or partition by landholder and transferee or co-sharer.

148. When any landholder transfers the whole or a portion of his estate or land, or when any estate or land is partitioned among co-sharers, the landholder and the transferee or the co-sharer, as the case may be, shall give notice of such transfer or partition, by publication in the District Gazette and in such other manner as the [3][State Government] may by rule direct, to the ryots as the case may be in occupation of the land transferred or partitioned, and, unless and until such notice is given, no ryot shall be liable to the transferee or co-sharer for any rent which became due after the transfer or partition and was paid to the landholder before notice of such transfer or partition was given to the ryot, and all proceedings against the landholder taken by any of the ryots to whom no such notice was given shall be as effectual and binding on the transferee or co-sharer as if they had been taken in the first instance against the transferee or co-sharer himself.

CHAPTER X.

Relinquishment and Ejectment.

Relinquishment of holding by ryot.

149. (1) Every ryot [4][* * * * * *] may, with effect from the end of any revenue year, relinquish [5] [by a notice in writing signed by him] his holding or any part thereof, not being less than a revenue field, provided that

[1] These words and figures were substituted for the words and figures "The notice required under section 146 shall be served" by section 79 (ii) of the Madras Estates Land Amendment Act, 1934 (Madras Act VIII of 1934).

[2] These words, letters and figures were inserted by section 79 (iii), *ibid.*

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] The words "other than a ryot of old waste bound by a lease or other written agreement for a fixed period" were omitted by section 80 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[5] These words were inserted by section 80 (ii), *ibid.*

the portion relinquished is accessible, and provided that the apportionment of the rent on the part retained shall be made by the landholder subject to revision by the Collector on application by the ryot. The portion retained shall be treated as a new holding and a fresh [1][patta] and [1][muchilika] shall be exchanged in respect of the same for the revenue year next succeeding that in which notice of relinquishment is given.

(2) A ryot who so relinquishes his holding or part of his holding shall be liable at the suit of the landholder before the Collector to indemnify him against any loss of rent on the holding or the part thereof for the revenue year next following the date of the relinquishment, unless the ryot gives to the landholder on or before the first day of April notice of his intention to relinquish.

Application to Collector for service of notice.

150. (1) If the landholder refuses to receive any notice under sub-section (2) of section 149, the ryot may, not later than the fifteenth day of April, make an application to [2][the Collector] who shall thereupon cause the notice to be served on such landholder, the ryot paying the costs of service.

(2) Every such notice shall be deemed to have been received at the time it was first tendered.

Suit for ejectment.

151. [3](1) A landholder may institute a suit before the Collector to eject [4][a ryot] from his holding only on the ground that the ryot has materially impaired the value of the holding for agricultural purposes and rendered it substantially unfit for such purposes.

(2) Notwithstanding anything contained in this section a landholder may sue before the Collector for compensation in addition to, or in lieu of, ejectment; or for an injunction, or for the repair of the damage or waste, with or without compensation.

Decree where damage is repairable or pecuniary compensation would be adequate relief.

152. If in any suit under the preceding section [4] [a ryot] is found liable to ejectment, but it appears that the damage to the holding admits of being repaired, or that pecuniary compensation would afford adequate relief, the decree shall provide that, if within one month from the date thereof or such further time as the Collector for reasons to be recorded

[1] The words "patta" and "muchilika" were substituted respectively for the words "puttah" and "muchalka" by section 2, of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] These words were substituted for the words "a Revenue officer" by section 3 (2), *ibid.*

[3] See also the Madras Estates Land (Temporary Amendment) Act, 1944 (Madras Act I of 1944), re-enacted permanently with specified modifications by section 3 of, and the Second Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948)

[4] These words were substituted for the words "an occupancy ryot" by section 81 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

may allow, the ryot does not repair the damage or pay as compensation a sum which shall be fixed by the Collector and specified in the decree, he shall be ejected.

[1] [153. * * *]

[1] [154. * * *]

Right of ejected ryot in respect of crops and land prepared for sowing.

155. The following rules shall be applicable in the case of every ryot ejected from a holding :—

(1) When the ryot has, before the date of his ejectment, sown or planted crops in any land comprised in the holding, he shall be entitled, at the option of the landholder, either to retain possession of that land and to use it for the purpose of tending and gathering in the crops, or to receive from the landholder the estimated value of the labour and capital expended by the ryot in preparing the land and sowing, planting and tending the crops, together with reasonable interest thereon.

(2) When the ryot has, before the date of his ejectment, prepared for sowing any land comprised in his holding, but has not sown or planted crops on that land, he shall be entitled to receive from the landholder the estimated value of the labour and capital expended by him in so preparing the land, together with reasonable interest thereon :

Provided that a ryot shall not be entitled to retain possession of any land or receive any sum in respect thereof under this section when, after the commencement of proceedings by the landholder for his ejectment, he has cultivated or prepared the land contrary to local usage :

Provided also that the rent, if any, payable to the landholder by the ryot at the time of ejectment may be set off against any sums payable to the ryot under this section.

Payment by ryot for occupation of land under preceding section.

156. When a landholder elects, under clause (1) of the last foregoing section, to allow a ryot to retain possession of any land for the purpose specified in that clause, the ryot shall pay to the landholder, for the use and occupation of the land during the period for which he is allowed to retain possession of the same, rent at the rate at which the ryot was holding.

[2] [157. * * *]

Eviction of tenant under Collector's warrant.

Eviction of Tenants [3][*and Ejectment of Trespassers*].

158. When any tenant of private land in an estate shall be in arrear at the end of a revenue year and when there is no sufficient distress upon the premises to satisfy the arrear,

[1] Sections 153 and 154 were omitted by section 82 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Section 157 was omitted by section 83, *ibid.*

[3] These words were inserted by section 84, *ibid.*

the landholder or his authorized agent may apply to the Collector for a warrant authorizing him to enter upon and take possession of the premises. Such warrant shall be granted upon the production of a written statement of the person applying for the warrant, which statement shall contain the name of the defaulter, the description and extent of the premises, the amount due for arrears, interest and costs of distraint, if any, and the date at which the arrear fell due, and also a declaration that there is no sufficient distress upon the premises. Such statement shall be filed in the office from which the warrant issues.

Contents of warrant.

159. The warrant shall state the defaulter's name, the whole amount due and the description and extent of the premises, and shall set forth that, unless payment is made within fifteen days the defaulter will be turned out of possession. The Collector may, for special reasons, extend the period of fifteen days mentioned in this section.

Execution of warrant.

160. The warrant shall be entrusted to an officer of police, who shall serve it after the manner laid down in sub-section (2) of section 78. If within fifteen days after service, or within the period extended by the Collector under the last foregoing section, the amount named in the warrant is not discharged and [1][if no application has been made by the defaulter to the Collector] to set aside the warrant, or if [1][such application] has been decided against the defaulter, the police officer shall place the landholder in possession.

Determination of tenancy.

161. Where possession has been delivered under the last preceding section, the defaulter may file a suit in a Civil Court within three months from the date of delivery for an order to set aside the proceedings and to restore him to possession, and subject to the result of such suit, if any, the defaulter's right and interest in the premises shall cease and determine.

Saving clause.

162. Nothing in sections 158 and 161 shall apply to any land in which the tenant has a saleable interest.

Rates of rent and damages payable for unauthorized occupation of ryoti land.

[2][**163.** A person who unauthorizedly occupies for agricultural purposes ryoti land which at the time of the occupation is not held by any ryot, shall be liable to pay for each revenue year or portion thereof the rent fixed for that land or, if no rent has been fixed, such sum as the Collector may, on application, determine to be fair and equitable.

[1] The words "if no application has been made by the defaulter to the Collector" were substituted for the words "if no suit has been filed by the defaulter before the Collector" and the words "such application" were substituted for the words "such suit" by section 35 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Sections 163 and 163-A were substituted for the original section 163 by section 36, *ibid.*

(Chapter X.—Relinquishment and Ejectment. Chapter XI.—Survey, Record-of-Rights and Settlement of Rents.)

He shall also be liable to pay, as damages for the unauthorized occupation, such sum not exceeding one year's rent as so fixed or determined, as the Collector may on application award, and the landholder may recover all sums due under this section as if they were arrears of rent.]

Ejectment of trespasser.

[1] [**163-A.** (1) (*a*) Any person who otherwise than by inheritance or legal transfer occupies ryoti land in an estate and has not been admitted as a ryot by the landholder or is not deemed to have been admitted as a ryot under the provisions of [2][Explanation [3]] to sub-section (1) of section 6 shall be liable to ejectment as a trespasser by suit in a Civil Court.

(*b*) Such suit shall be instituted within twelve years from the date of commencement of the occupation.

(*c*) It shall not be open to the defendant in such suit to set up the plea that he has, since the institution of the suit, acquired the status of a ryot by virtue of the Explanation to clause (15) of section[3].

(2) In any suit for ejectment under this section, the landholder shall also be entitled to mesne profits and damages for unauthorized occupation which shall be assessed at the rates fixed under section 163 or if there are no such rates, at the rates which the Court may determine in accordance with the provision contained in section 163 :

Provided that where the landholder has received rent for any year, he shall not be entitled to any further damages for unauthorized occupation for that year.]

CHAPTER XI.

Survey, Record-of-Rights and Settlement of Rents.

Power of State Government to order survey and record-of-rights.

164. (1) The [3][State Government] may make an order directing that a survey be made and a record-of-rights be prepared by [4][the Collector] in respect of an estate or portion of an estate, in the following cases, namely :—

(*a*) where—

(i) the landholder or ryots, or

(ii) not less than one-half of the total number of landholders, or

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[1] Sections 163 and 163-A were substituted for the original section 163 by section 86 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934.)

[2] The word, figure and brackets were substituted for the word, figure and brackets " Explanation (2) " by section 7 of the Madras Estates Land (Third Amendment) Act, 1936 (Madras Act XVIII of 1936).

[3] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] These words were substituted for the words " a Revenue Officer " by section 3 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

(iii) a landholder or a proportion of the landholders whose interest or the aggregate of whose interests, respectively, in the estate or portion thereof is not less in value than one-half of the total shares of all the landholders therein, or

(iv) not less than one-fourth of the total number of ryots—

applies or apply for such an order, depositing or giving security for such amount for the payment of expenses as the [1][State Government] direct ;

(*b*) where in the opinion of the [1][State Government] the preparation of such a record is required to secure either the ryots generally or the landholder of an estate or portion of an estate in the enjoyment as such of their or his legal rights or is calculated to settle or avert a serious dispute existing or likely to arise between the ryots generally and their landholder ; or

(*c*) where the estate is an estate managed [2][on behalf of the Government] or is under the superintendence of the Court of Wards.

(2) A notification in the official Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

Madras Act VIII of 1923.

[3][(3) The survey shall be made under the Madras Survey and Boundaries Act, 1923, and the record-of-rights shall be prepared in accordance with the rules prescribed by the [1][State Government] and may, if the [1][State Government] so direct, include—

(*a*) a record of all rights and obligations of each ryot and landholder in respect of—

(i) the use by the ryots of water for agricultural purposes whether obtained from a tank, well or any other source of supply ; and

(ii) the repair and maintenance of works for securing a supply of water for the cultivation of the land held by each ryot whether or not such works be situated within the boundaries of such land ; and

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] The words "on behalf of the Crown" were substituted for the words "by the Government" by the Adaptation Order of 1937 and the word "Government" was substituted for "Crown" by the Adaptation Order of 1950.

[3] Sub-sections (3) and (4) were substituted for the original sub-section (3) by section 87 (1) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

(*b*) a record of any special rights which by law or by custom, the ryots may have in the waste land of the estate.

(4) Certified copies of the survey plan, survey land register and field measurement sheets relating to any village or the area therein which has been surveyed shall be furni hed to the karnam of the village and shall be available for inspection by the ryots thereof.]

[1][*Explanation.*—In the case of an estate already surveyed which or a portion of which is taken up for the preparation of a record-of-rights under this section the survey required by this section may be limited to what is necessary for the preparation of a record-of-rights.]

Particulars to be recorded.

165. When an order is made under the last foregoing section, the particulars to be recorded shall be specified in the order and shall include, either without or in addition to other particulars, some or all of the following, namely :—

(*a*) the name of each ryot's landholder and of each landholder in the estate or portion thereof ;

(*b*) the name of the ryot, [2][* * * * *] or where there is no ryot, the name of the occupant ;

(*c*) the situation, extent and one or more of the boundaries of the land held by the ryot, as shown in the survey map of the village ;

(*d*) whether the land is irrigated, unirrigated, or garden land and, if irrigated, whether double or single crop ;

(*e*) the rent lawfully payable at the time the record is being prepared and whether the ryot is entitled to the benefit of proviso (*a*) to clause (i) of section 30 ;

(*f*) how the rent has been fixed, whether by decree or under the provisions of this Act or otherwise ;

(*g*) any rights lawfully incident to the holding ;

(*h*) if the rent is gradually increasing rent, the times at which and steps by which it increases ;

(*i*) if the land is claimed to be held free of rent, whether rent is actually paid or not ; and when rent is not paid, whether the occupant is entitled to hold the land without such payment and if so entitled, on what authority ; and the rent payable, if the land were liable to rent ;

(*j*) the record of irrigation rights ordered under sub-section (3) of section 164 [3][and the record of special rights in the waste land ordered under the same sub-section].

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[1] The Explanation was added by section 87 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words " and whether the ryot is an occupancy or a non-occupancy ryot " were omitted by section 88, *ibid.*

[3] These words were added by section 88 (ii), *ibid.*

(Chapter XI.—Survey, Record-of-Rights and Settlement of Rents.)

Publication of preliminary record and entertainment of objections thereto.

166. (1) When the [1][Collector] has, after making such inquiry as he sees fit, completed a preliminary record for the estate or part of the estate, he shall publish a draft thereof in the prescribed manner and for the prescribed period, and shall receive and consider any objection to any entry therein or to any omission therefrom, which may be made during the period of publication.

Publication of final record.

(2) When such objections have been considered and disposed of according to such rules as the [2][State Government] shall prescribe, the [3][Collector] shall finally frame the record, and shall cause it to be locally published in the prescribed manner, and the publication shall be conclusive evidence that the record has been duly made under this Chapter.

[4][(2-A) The Collector shall, along with the final record, cause to be published the name or official designation of the person to whom and the date on or before which the [2][State Government] direct that applications for settlement of rent under sub-section (1) of section 168 should be made.

Any date fixed by the [2][State Government] under this sub-section shall not be earlier than six months from the date of publication of the final record.

(2-B) A certified copy of the final record-of-rights relating to any village or the area therein for which such record-of-rights has been prepared as well as of all amendments thereto made under the provisions of this Chapter shall be furnished to the karnam of such village and shall be available for inspection by the ryots thereof.]

(3) Separate draft or final records may be published [5][and separate dates fixed] under this section for different portions of the estate.

Presumption as to final publication and correctness of record-of-rights.

167. (1) In any suit or other proceeding in which a record-of-rights prepared and published under this Chapter or a duly certified copy thereof or extract therefrom is produced, such record-of-rights shall be presumed to have been finally published, unless this is expressly denied, and a certificate signed [6][by the Collector or by the District Collector] of any district

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[1] This word was substituted for the words " Officer preparing the record of rights " by section 3 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[3] This word was substituted for the words " Officer aforesaid " by section 3 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[4] Sub-sections (2-A) and (2-B) were inserted by section 89 (i), *ibid.*

[5] These words were inserted by section 89 (ii), *ibid.*

[6] These words were substituted for the words " by the Revenue officer or by the Collector " by section 3 (2), *ibid.*

in which the estate or part thereof to which the record-of-rights relates is wholly or partly situate, stating that a record-of-rights has been finally published under this Chapter, shall be conclusive evidence of such publication.

(2) The [1][State Government] may, by notification, declare with regard to any estate or portion of an estate that a record-of-rights has been finally published for every village included therein and such notification shall be conclusive evidence of such publication.

(3) Every entry in a record-of-rights so published shall be evidence of the matter referred to in such entry, and shall be presumed to be correct until the contrary is proved.

Settlement of rents.

168. (1) [2][If on or before the date fixed under sub-section (2-A) of section 166 in respect of any village or any area for which a record-of-rights is published where such area is less than a village or within such further period, if any, as the [1][State Government] may, [3][* * *] from time to time, think fit to allow] either the landholder or the ryots apply for a settlement of the rent, provided that in the case of ryots the application is made by [4][holders of not less than one-eighth] of the total extent of the [5][holdings in such village or area], the [6][Collector] shall, if the [1][State] Government so direct, settle a fair and equitable rent in respect of the [1]and [7][situated in such village or area].

Explanation.—A landholder may apply for a settlement of rent notwithstanding that his estate or part thereof has been temporarily leased.

[8][(1-A) Notwithstanding anything contained in sub-section (1), the [1][State Government] may at any time direct the Collector to settle a fair and equitable rent in respect

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] These words and figures were substituted for the words and figures " If within two months from the date of final publication of the record-of rights under sub-section (2) of section 166 " by section 90 (1) (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[3] The words " in their discretion " were omitted by the Adaptation Order of 1937.

[4] These words were substituted for the words " holders of not less than one-fourth " by section 90 (1) (ii) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[5] These words were substituted for the words " holding in the village " by section 90 (1) (iii) *ibid.*

[6] This word was substituted for the words " Revenue Officer " by section 3 (1), *ibid.*

[7] These words were added by section 90 (1) (iv), *ibid.*

[8] This sub-section was inserted by section 90 (2), *ibid.*

of the land situated in any village or area for which a final record-of-rights has been published separately under section 166.]

(2) In settling rents under this section, the [1][Collector] shall presume until the contrary is proved that the existing rent or rate of rent is fair and equitable and shall have regard to the provisions of this Act for determining the rates of rent payable by a ryot.

(3) The [2][Collector] may in any case under this section propose to the parties such rent or rate of rent as he considers fair and equitable; and the rent so proposed, if accepted orally or in writing by the parties, may be recorded as the fair and equitable rent and shall be deemed to have been duly settled under this Act.

(4) Where the parties agree among themselves, by compromise or otherwise, as to the amount of the rent, the [2][Collector] shall satisfy himself that the amount agreed upon is fair and equitable, and if so satisfied, but not otherwise, he shall record the amount so agreed upon as the fair and equitable rent. If not so satisfied, he shall himself settle a fair and equitable rent as provided in sub-sections (2) and (3).

Preliminary publication and amendment of settlement record.

169. (1) When a settlement has been completed under section 168, the [2][Collector] shall cause a record thereof to be made showing the name of the landholder and the ryot, the extent of the holding and such other particulars as the [3][State Government] may direct and the amount of the rent settled therefor and shall cause a copy thereof to be published in the prescribed manner and for the prescribed period, and shall receive and consider any objections made to any entry in such record or omission therefrom, during the period of publication, and shall dispose of such objections according to such rules as the [3][State Government] may prescribe.

(2) The [2][Collector] may, of his own motion or on the application of any party aggrieved, at any time before the settlement record is submitted to the confirming authority under section 170, revise any rent entered therein :

Provided that no such entry shall be revised until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

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[1] This word was substituted for the word "officer" by sect'ion 3 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] This word was substituted for the words "Revenue officer" by section 3 (1) *ibid.*

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(Chapter XI.—Survey, Record-of-Rights and Settlement of Rents.)

Final revision of settlement record and incorporation of the same in record-of-rights.

170. (1) When all objections have been disposed of under section 169, the [1][Collector] shall submit the settlement record to the confirming authority appointed by the [2] [State Government] with a full statement of the grounds of his proposals and a summary of the objections (if any) which he has received.

(2) The confirming authority may sanction the settlement with or without amendment, or may return it for revision. [3][The confirming authority shall have power to modify any order passed by the Collector on any objection made under section 169 :]

Provided that no entry shall be amended, or omission supplied until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(3) After it has been sanctioned by the confirming authority, the settlement record shall be incorporated in the record-of-rights published under sub-section (2) of section 166, and the record-of-rights as so amended shall be finally republished in the prescribed manner and such publication shall be conclusive evidence that the record has been duly made.

Appeal to superior Revenue author

[4][**171.** An appeal, if presented within three months from the date of the final republication of the record-of-rights under sub-section (3) of section 170, shall lie from every order passed by a Collector on any objection made under section 169, with such modification, if any, as may be made therein by the confirming authority under sub-section (2) of section 170 and such appeal shall lie to such superior Revenue authority as the [2] [State Government] may, by rule, prescribe or to an officer specially empowered by the [2] [State Government] in this behalf.]

Revision by Board of Revenue.

[5][**172.** The Board of Revenue may, in any case on application or of its own motion, direct the revision of any record-of-rights, or any portion of a record-of-rights, at any time within two years from the date of the final publication under sub-section (2) of section 166, or if there has been a settlement of rent under section 168, within two years from the date of republication under sub-section (3) of section 170, but not so as to affect any order passed by a Civil Court under section 173 :

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[1] This word was substituted for the words " Revenue officer " by section (1) of the Madras Estates Lands (Amendment) Act, (1934 Madras Act VIII of 1934).

[2] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word "State" was substituted for " Provincial " by the Adaptation Order of 1950.

[3] This sentence was added by section 91, of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[4] This section was substituted for the original section 171 by section 92, *ibid.*

[5] This section was substituted for the original section 172 by section 93, *ibid.*

Provided that no such direction shall be made until reasonable opportunity has been given to the parties concerned to appear and be heard in the matter.

Explanation.—"The Board of Revenue" in this section shall mean the collective Board if one member of the Board has already heard an appeal under section 171.]

Entries in settlement record when open to question by civil suit.

173. (1) Any person aggrieved by an entry in a settlement record prepared under sections 168 to 171 and incorporated in a record-of-rights finally published under sub-section (3) of section 170 or by an omission to settle a rent, may institute a suit in the Civil Court [1][for the relief he claims].

(2) Such suit must be instituted within six months from the date of the final publication of the record-of-rights under sub-section (3) of section 170, or, if an appeal has been presented to a Revenue authority under section 171, then within six months from the date of the disposal of such appeal.

(3) Such suit may be instituted on any of the following grounds, and on no others, namely :—

(*a*) that the relation of landholder and ryot does or does not exist ;

(*b*) that the land is not liable to the payment of rent ;

(*c*) that the land, although entered in the record-of-rights as being held rent-free, is liable to the payment of rent ;

(*d*) that any entry made under clauses (*d*), (*e*) and (*j*) of section 165 is incorrect ;

(*e*) that special conditions in respect of holding at a favourable rate have been wrongly recorded or omitted ;

(*f*) that the [2][Collector] has wrongly fixed the date from which the operation of the settled rent under the provisions of section 177 should take effect.

The [3][Government] shall not be made a defendant in any such suit.

[4][* * *]

[4][(4) The Court shall notify its decree to the District Collector].

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[1] These words were substituted for the words "which would have jurisdiction to entertain a suit for the possession of the land to which the entry relates or in respect of which the omission was made" by section 94 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] This word was substituted for the words "Revenue officer" by section 3 (1), *ibid.*

[3] The word 'Crown' was substituted for the words "Secretary of State for India in Council" by the Adaptation Order of 1937 and the word "Government" was substituted for 'Crown' by the Adaptation Order of 1950.

[4] Original sub-section (4) was omitted and original sub-section (5) was renumbered as sub-section (4) by section 94 (ii) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934) ; and for sub-section (4) as so renumbered, this sub-section was substituted by section 94 (iii), *ibid.*

(Chapter XI.—Survey, Record-of-Rights and Settlement of Rents.)

Entry of note of decisions under sections 171 and 173 in record-of-rights.

174. A note of all decisions on appeal under section 171 and of all [1][* * * *] decrees of a Civil Court notified to the [2][District] Collector under [3][sub-section (4)] of section 173 shall be made in the record-of-rights with which the settlement record has been incorporated under section 170 and such note shall be considered as part of the record.

Correction of clerical and accidental mistakes.

[4][**175.** Any Collector specially empowered by the [5][State Government] in this behalf may, on application or of his own motion, correct a clerical or arithmetical mistake in any record-of-rights or any error arising therein from any accidental slip or omission :

Provided that no such correction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.]

Presumption as to correctness of rents settled under sections 168 to 170.

[6][**176.** Subject to the provisions of sections 171 to 175, all rents settled under sections 168 to 170 and entered in a record-of-rights finally published under sub-section (3) of section 170, shall be deemed to have been correctly settled and to be fair and equitable rent within the meaning of this Act.]

Time from which settlement of rent is to take effect and limitation of period of enhancement.

177. When any rent is settled under this Chapter the settlement shall take effect from the beginning of the revenue year next after the date of [7] [the sanction by the confirming authority under sub-section (2) of section 170] and shall not thereafter be enhanced for a period of twenty years except on the grounds specified in clauses (ii) and (iii) of section 30 or of a subsequent alteration in the area of the holding nor reduced within the said period save on the ground of alteration in the area of the holding or on the ground specified in clauses (*a*) and (*b*) of sub-section (1) of section 38 :

[8] [Provided that the settlement shall take effect in respect of all holdings in a single village or where the area in respect of which the settlement is effected is less than a village in respect of all holdings in such area in the same revenue year :

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[1] The words " orders or " were omitted by section 95 of the Madras Estates Land (Amendments) Act, 1934 (Madra Act VIII of 1934).

[2] This word was inserted by *ibid.*

[3] The word, figure and brackets were substituted for the word, figure and brackets " sub-section (5) " by *ibid.*

[4] This section was substituted for the original section 175 by section 96, *ibid.*

[5] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[6] This section was substituted for the original section 176 by section 97 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[7] The words, figures and brackets were substituted for the words " the final order or decision fixing the rent " by section 98 (1), *ibid.*

[8] The provisos to section 177 were added by section 98 (2), *ibid.*

Provided further that nothing in this section shall be deemed to apply to an enhancement or reduction of rent ordered under sections 171, 172, 173 or 175.]

Stay of proceedings during preparation of record-of-rights.

178. (1) When an application has been made under section 168, no [1][suit, application or proceeding] shall be commenced or continued in any Civil or Revenue Court under sections 30, 38 and 40 until after the final publication of the record-of-rights under sub-section (3) of section 170.

(2) When an order has been made under section 164 directing the preparation of a record-of-rights, no Civil or Revenue Court shall entertain or proceed with any suit or application for the alteration of the rent in the area to which the record-of-rights applies until after the final publication of such record-of-rights.

Limitation of jurisdiction of Civil Courts in matters other than rent relating to the record-of-rights.

179. No suit shall be brought in any Civil Court in respect of any order directing the preparation of a record-of-rights under this Chapter, or in respect of the framing, publication, signing or attestation of such a record or of any part of it, or, save as provided in section 173, for the alteration of any entry in such a record of a rent settled under sections 168 to 172 :

Provided that any person who is dissatisfied with any entry in, or omission from, a record-of-rights framed in pursuance of an order made under sub-section (1) of section 164, which concerns [2][his right], may institute a suit for declaration of his right under Chapter VI of the Specific Relief Act, 1877.

Central Act I of 1877.

Apportionment of expenses.

180. (1) [3][* * * * *] [4][The expenses incurred in carrying out any of the provisions of this Chapter] in any estate or part thereof, or such portion of those expenses as the [5] [State Government] may direct, shall be defrayed by the landholder and ryots in the estate or part thereof and the holders of any land held on favourable terms within such estate if such land is included in the record-of-rights in such proportions as the [5] [State Government], having regard to all the circumstances, may determine ; and the proportion

[1] These words were substituted for the words " suit or proceedings " by section 99 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] These words were substituted for the words " a right of which he is in possession " by section 100, *ibid.*

[3] The words " When the preparation of a record-of-rights under this Chapter has been directed or undertaken " were omitted by section 101 (i), *ibid.*

[4] These words were substituted for the words " the expenses incurred by the Government in carrying out the provisions of this Chapter " by section 101 (ii), *ibid.*

[5] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

of those expenses so to be defrayed by any person shall be deemed to be land revenue and may be recovered as arrears of land revenue under the provisions of the Madras Revenue Recovery Act, 1864, or the Madras City Land Revenue (Amendment) Act, 1867, as the case may be. Madras Act II of 1864. Madras Act VI of 1867.

(2) The cost of the preparation of copies of survey maps and record-of-rights prepared under this Chapter for distribution to landholders and ryots shall be deemed to be part of the expenses incurred in carrying out the provisions of this Chapter.

CHAPTER XII.

LANDHOLDER'S PRIVATE LAND.

Conversion of private land into ryoti land.

[1][**181. A** landholder shall be at liberty to convert his private land into ryoti land and confer occupancy right in land so converted.]

Power to order survey and record of landholder's private land.

182. The [2][State Government] may make an order directing [3][the Collector] to make a survey and record of all the landholder's private land in a specified local area.

No order under this section shall be questioned in any Civil or Revenue Court.

Power to record private land on application of landholder or occupant.

183. (1) In the case of any land alleged to be a landholder's private land, on the application of the landholder or of any occupant and on his depositing the required amount for expenses, [3][the Collector] may, subject to rules made in this behalf by the [2][State Government], ascertain and record whether the land is or is not a landholder's private land.

(2) Notwithstanding anything contained in any agreement or compromise, [4][* * * *] [3][the Collector] shall not record any land as a landholder's private land, unless it is proved to be such by satisfactory evidence [5][* * * * *].

Procedure for recording private land.

184. When [3][the Collector] proceeds under either section 182 or section 183, the provisions of sections 166, 167, 179 and 180 shall, so far as may be, apply.

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[1] This section was substituted for the original section 181 by section 102 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "Provincial Government" substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for Provincial by the Adaptation Order of 1950.

[3] These words were substituted for the words "a Revenue Officer" by section 3 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[4] The words "or in any decree which is proved to his satisfaction to have been obtained by collusion or fraud" were omitted by section 103, *ibid.*

[5] The words and figures "of the nature described in section 185" were omitted by *ibid.*

(Chapter XII.—Landholder's Private Land.)

Presumption that land in inam villages is not private land.

[1][185. When in any suit or proceeding it becomes necessary to determine whether any land is the landholder's private land, regard shall be had—

(1) to local custom,

(2) in the case of an estate within the meaning of sub-clauses (*a*), (*b*), (*c*) or (*e*) of clause (2) of section 3, to the question whether the land was before the first day of July 1898, specifically let as private land, and

(3) to any other evidence that may be produced:

Provided that the land shall be presumed not to be private land until the contrary is proved:

Provided further that in the case of an estate within the meaning of sub-clause (*d*) of clause (2) of section 3—

(i) any expression in a lease, patta or the like, executed or issued on or after the first day of July 1918, to the effect or implying that a tenant has no right of occupancy or that his right of occupancy is limited or restricted in any manner, shall not be admissible in evidence for the purpose of proving that the land concerned was private and at the commencement of the tenancy; and

(ii) any such expression in a lease, patta or the like, executed or issued before the first day of July 1918, shall not by itself be sufficient for the purpose of proving that the land concerned was private land at the commencement of the tenancy.]

Declaration of kudivaram interest of inamdar.

Mears Act XVIII of 1936.

[2][185-A. (1) In the case of an inam village which was not an estate before the commencement of the Madras Estates Land (Third Amendment) Act, 1936, but became an estate by virtue of that Act, in respect of any land which does not fall under any of the categories referred to in paragraphs (i) to (iv) of sub-clause (*b*) of clause (10) of section 3 or under the category referred to in sub-section (4) or sub-section (5) of section 8, the landholder may [3][within three years] of the date of the commencement of the Madras Estates Land (Third Amendment) Act, 1936, lodge an application, in such manner as may be notified by the [4][State Government], for a declaration by a special Tribunal constituted as hereinafter provided, that the kudivaram in such land was vested in him on the 1st day of November 1933 and that he has retained it ever since.

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[1] This section was substituted for the original section 185 by section 8 of the Madras Estates Land (Third Amendment) Act, 1936 (Madras Act XVIII of 1936).

[2] Sections 185-A and 185-B were inserted by section 9, *ibid.*

[3] These words were substituted for the words "within two years" by section 2 of the Madras Estates Land (Amendment) Act, 1938 (Madras Act XII of 1938).

[4] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(2) (*a*) A special Tribunal or special Tribunals shall, from time to time, as occasion may arise be constituted to hear and dispose of applications of the nature specified in sub-section (1).

(*b*) Every such Tribunal shall consist of three members chosen by the [1][State Government] one of whom shall be a Judicial officer eligible for appointment as a Judge of the High Court; and another shall be an experienced Revenue officer. The [1][State Government] shall appoint one of the members of the Tribunal as the President thereof.

(*c*) Clauses (i) and (ii) of the second proviso to section 185 shall apply to proceedings under this section.

(*d*) Any order under this sub-section passed by a special Tribunal or by a majority of the members thereof shall be final and shall not be liable to be questioned in any court of law.

[2][(3) In the case of an estate within the meaning of sub-clause (*d*) of clause (2) of section 3 read with Explanation (1) to that sub-clause, the provisions of this section shall have effect as if for the expression "three years of the date of the commencement of the Madras Estates Land (Third Amendment) Act, 1936" in sub-section (1), the expression "one year of the date of the commencement of the Madras Estates Land (Amendment) Act, 1945" had been substituted : Madras Act XVIII of 1936. Madras Act II of 1945.

Provided that this sub-section shall not entitle a landholder to lodge an application under sub-section (1) read with this sub-section, if he had previously lodged an application in respect of the same land and such application was heard and disposed of on its merits by a special Tribunal.]

[3][(4) Any order (including an order for costs) passed by a special Tribunal, whether before or after the commencement of the Madras Estates Land (Second Amendment) Act, 1945, shall, on application by the party concerned, be executed by the Collector within whose jurisdiction the land to which the order relates is situated, as if it were an order passed by him in a suit under this Act : Madras Act XIV of 1945.

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[1] The words "Governor exercising his individual judgment" were substituted for the word "Governor" by the Adaptation Order of 1937 and the words "exercising his individual judgment" were omitted by the Adaptation Order of 1947 and the words "State Government" were substituted for the word "Governor" by the Adaptation (Amendment) Order of 1950.

[2] This sub-section was added by section 3 of the Madras Estates Land (Amendment) Act, 1945 (Madras Act II of 1945), re-enacted permanently by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

[3] This sub-section was added by section 2 of the Madras Estates Land (Second Amendment) Act, 1945 (Madras Act XIV of 1945), re-enacted permanently by section 2 of, and the First Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

Provided that in computing the period of limitation for any such application in respect of an order passed before the commencement of the Madras Estates Land (Second Amendment) Act, 1945, the period between the date on which the special Tribunal was dissolved and the date of such commencement shall be excluded.

Madras Act XIV of 1945.

Acquisition of occupancy right in lands in which kudivaram is declared to be inamdar.

[**185-B.** (1) Any land in respect of which the kudivaram is declared under section 185-A to have vested in the landholder on the first day of November 1933 and to have been retained by him ever since shall be ryoti land.

(2) In respect of any land referred to in sub-section (1) the landholder shall, on the application of the tenant and on the tender by him as compensation of an amount equal to the annual rent payable in respect of the land as may have been agreed to by the landholder together with the cost of preparing any instrument required for the purpose, confer upon the tenant a permanent right of occupancy in respect of the said land :

Provided that in the case of a dispute as to the amount payable as compensation, the tenant or the landholder may apply to the Collector to fix the same and the Collector may determine an amount equal to the annual rent payable in respect of the land as the amount payable as compensation.

(3) If a landholder to whom an application and tender have been made by a tenant fails for a period of one month to confer a permanent right of occupancy, the tenant may deposit the amount payable as compensation together with the cost of preparing any instrument required for the purpose in the Collector's office and apply to the Collector to confer on him a permanent right of occupancy in respect of that land.

(4) The Collector shall thereupon give notice of the application to the landholder and after hearing him if he appears and making such inquiry as he thinks necessary, may execute any instrument required for conferring a permanent right of occupancy upon the tenant in respect of the land and such execution shall have the same effect as an execution by the landholder.

(5) Notwithstanding anything contained in section 151 or in any other provisions of this Act, where the tenant—

(*a*) fails within a period of one year from the date of the declaration referred to in sub-section (1) to make an application and tender to the landholder under the first paragraph of sub-section (2), or

(*b*) in the case of a dispute as to the amount payable as compensation, fails to tender the amount fixed as com-

pensation by the Collector under the proviso to sub-section (2) within a period of one year from the date of such determination.

The tenant shall, on the application of the landholder to the Collector, be liable to be ejected:

Provided that in the event of an appeal to the District Collector regarding the amount of compensation, the period of one year referred to in clause (*b*) shall be computed from the date of the disposal of the appeal.]

CHAPTER XIII.

ACQUISITION BY LANDHOLDER OF LAND FOR BUILDING AND OTHER PURPOSES.

Acquisition by landholder of land for building and other purposes.

[1][**186.** (1) (*a*) If the District Collector on the application of a landholder, is satisfied after giving notice to the ryot or inamdar, as the case may be, and making such inquiry as he thinks fit, that the landholder is desirous of acquiring any land within the limits of his estate in the occupation of a ryot or an inamdar, for some reasonable and sufficient purpose having relation to the good of the holding, if any, of which such land forms part, or of the estate, including the use of the land as building ground or for any religious, educational, communal or charitable purpose or for the opening and working of mines or for the purpose of a tank or of supply, drainage, surplus or irrigation channels, he may grant a certificate to the landholder specifying the land and stating that the purpose for which the landholder desires to acquire it is reasonable and sufficient.

The District Collector's certificate with regard to the reasonableness and sufficiency of the purpose for which any land is required by the landholder shall be final and shall not be open to question in any Civil Court.

(*b*) The [2][State Government] may, on application by the landholder and on the production by him of a certificate of the District Collector under clause (*a*) in respect of any land subject to his depositing the probable cost of the acquisition as estimated by the District Collector and fulfilling such other conditions as may, by general or special order, be laid

[1] This section was substituted for the original section 186 by section 105 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

down by the [1][State Government] in this behalf, direct the District Collector to take order for the acquisition of the interest of the ryot or inamdar in such land under the Land Acquisition Act, 1894. Thereupon the provisions of that Act shall, subject to the modification specified in sub-section (2), apply as if such interest were land within the meaning of the said Act and the [1][State Governmet] had directed the District Collector to take order for the acquisition of the same under section 7 of the said Act.

Central Act I of 1894.

If the cost of the acquisition including all charges incidental thereto exceeds the amount deposited, the landholder shall pay such excess and if such cost is less than the amount deposited, the difference shall be refunded to him. The interest acquired shall be transferred to the landholder on payment by him, in full, of the cost of acquisition.

(2) Where the land has been acquired for the opening and working of mines and the ryot or inamdar has any right in the minerals, the compensation awarded to him shall include compensation for such right.]

CHAPTER XIV.

CONTRACT.

187. (1) Nothing in any contract between a landholder and a ryot made before or after the passing of this Act— Restrictions on contract.

(*a*) shall take away or limit the right of the ryot to make improvements in accordance with the provisions of this Act ;

(*b*) shall take away or limit the right of [2][a ryot] to use the land as provided by section 11 ;

(*c*) shall take away the right of [2][a ryot] to sue or apply for a reduction of rent on the grounds stated in clauses (*a*) and (*b*) of sub-section (1) of section 38 or [3][sub-section (3) of section 32] or except in the case of any subsisting lease for a fixed period made before the first day of January 1908 on the ground stated in clause (*c*) of sub-section (1) of section 38 ;

(*d*) shall take away the right of [2][a ryot] to apply for an alteration of rent under the provisions of section 42 ;

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] These words were substituted for the words "an occupancy ryot" by section 106 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[3] These words and figures were substituted for the word and figures ', sub-section (2) of section 32" by section 106 (ii), *ibid.*

(*Chapter XIV.—Contract. Chapter XV.—Jur isdiction and Proceaure.*)

(*e*) shall take away the right of a landholder or [1][a ryot] to [2][apply for commutation of rent] under section 40 ;

(*f*) shall take away the right of [1][a ryot] to surrender his holding in accordance with section 149 ; or

(*g*) shall entitle a landholder to eject a ryot otherwise than in accordance with the provisions of this Act.

(2) Nothing in any contract between a landholder and a ryot made after the passing of this Act shall affect the provisions of section 61 relating to interest payable on arrears of rent so as to increase the amount of interest payable.

[3][**188.** * * *].

CHAPTER XV.

JURISDICTION AND PROCEDURE.

Suits and applications.

189. [4][(1) A District Collector or Collector hearing suits or applications of the nature specified in Parts A and B of the Schedule and the Board of Revenue or the District Collector exercising appellate or revisional jurisdiction therefrom shall hear and determine such suits or applications or exercise such jurisdiction as a Revenue Court.

No Civil Court in the exercise of its original jurisdiction shall take cognizance of any dispute or matter in respect of which such suit or application might be brought or made.]

Appeals.

(2) [5][Decrees and orders passed in the suits and applications referred to in sub-section (1)] shall be subject to appeal as provided in the sixth column of Parts A and B of the Schedule.

(3) The decision of a Revenue Court or of an appellate or revisional authority in any suit or proceeding under this Act on a matter falling within the exclusive jurisdiction of the Revenue Court shall be binding on the parties thereto and persons claiming under them, in any suit or proceeding in a Civil Court in which such matter may be in issue between them.

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[1] These words were substituted for the words "an occupancy ryot" by section 106 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934.)

[2] These words were substituted for the words "sue for commutation of rent" by section 106 (iii), *ibid.*

[3] Section 188 was omitted by section 107, *ibid.*

[4] This sub-section was substituted for the original sub-section (1) by section 108 (i), *ibid.*

[5] These words and figure were substituted for the words and figure "Decrees and orders passed under sub-section (1)" by section 108 (ii), *ibid.*

(*Chapter XV.—Jurisdiction and Procedure.*)

[1] [(4) The decision of a Civil Court on any matter falling within its jurisdiction shall be binding on the parties thereto and persons claiming under them in any suit or proceeding before a Revenue Court or an appellate or revisional authority in which such matter may be in issue between them.]

Second appeals.

[2] [190.] A second appeal shall lie to the Board of Revenue against the orders passed on appeal by a District Collector in the case of [3] [an application under section 15, section 25, sub-section (3) of section 32, [4] (* * *) or sub-section (2) of section 42.]

Limitation for appeals under sections 189 and 190.

191. The period of limitation for an appeal under sections 189 and 190 shall run from the date of the order or decree appealed against [5] [* * * *] and shall be as follows ; that is to say :—

(*a*) when the appeal lies to the District Court or District Collector—thirty days ;

(*b*) when the appeal lies to the Board of Revenue—sixty days.

Application of Code of Civil Procedure, 1908, to proceedings under Act.

Central Act V of 1908.

[6] [**192.** (1) The [7] [State Government] may from time to time make rules consistent with this Act declaring that any provisions of the Code of Civil Procedure, 1908, shall not apply to suits, applications, appeals, or other proceedings under this Act in any Civil or Revenue Court or to any specified classes of such suits, applications, appeals or proceedings [8] [or to applications or other proceedings before the Tribunal constituted under section 185-A] or shall apply to them subject to modifications and additions specified in the rules.

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[1] This sub-section was added by section 108 (iii) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Sub-section (1) of section 190 was renumbered as section 190 and sub-section (2) was omitted by section 109 (1), *ibid.*

[3] These words and figures were substituted for the words and figures " an application under section 15 or a suit under section 40 " by section 109 (2), *ibid.*

[4] The word and figures " section 40 " were omitted by the Second Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

[5] The words " excluding the time occupied in obtaining a copy of such order or decree " were omitted by section 110 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[6] This section was substituted for the original section 192 by section 111, *ibid.*

[7] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[8] These words, figures and letter were inserted by section 10 of the Madras Estates Land (Third Amendment) Act, 1936 (Madras Act XVIII of 1936).

(Chapter XV.—Jurisdiction and Procedure.)

(2) Subject to any rules so made and subject also to the other provisions of this Act and the following modifications and additions, the provisions of the Code of Civil Procedure, 1908, shall apply to all such suits, applications, appeals and proceedings so far as they are not inconsistent therewith :— Central Act V of 1908.

(*a*) (i) The plaint shall specify, in addition to the particulars mentioned in rule 1 of Order VII of the said Code, the name of the village in which the land to which the suit relates is situated, the designation, if any, of the land and a description of the land sufficient for its identification ;

(ii) Where the suit is for the recovery of rent due on land situated within an area in which a record-of-rights has been prepared and published, the plaint shall further contain a statement of the rent of the holding according to the record-of-rights :

Provided that if the Court sees fit at any time to require it, a copy of, or extract from, the record-of-rights relating to the holding shall be produced by the plaintiff, or shall, if necessary, on the requisition of the Court, be supplied by the Collector on payment by the plaintiff or the defendant as the Court may direct of such fee as the [1] [State Government] may by rule under this Act prescribe ;

(iii) If the suit is for arrears of rent the plaint shall contain a statement of account showing the instalments payable for the period to which the suit relates, the amount, if any, received, and the amount claimed to be due.

(*b*) No set-off whether legal or equitable shall be pleaded by way of defence to any suit under this Act.

(*c*) When any rent roll or collection or measurement papers have been produced by a landholder in any Court, in a suit, application or proceeding pending therein, copies of or extracts from such documents which have been certified by a duly authorized officer of such Court to be true copies or extracts, may be admitted in evidence in proof of the originals in any other suit, application or proceeding instituted in the same or another Court unless the Court in which such copies or extracts are produced sees fit to require the production of the originals.

(*d*) To the particulars not liable to attachment or sale under section 60 of the said Code shall be added ' manure stocked by an agriculturist.'

(*e*) Standing timber, growing crops or other products of the earth may be attached and sold in execution of a decree in the same manner as movable property, and if the property attached is growing crops or other products of the earth, the

[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

judgment-debtor and the decree-holder shall have the same rights in respect of the tending, gathering, and storing thereof as the cultivator and the distrainer, respectively, would have had under section 83 if such crops or products had been distrained for an arrear of rent.

(3) In any suit, application or proceeding under this Act to recover rent or to contest distraint or the right of sale of a holding, if a party admits that rent as claimed or part thereof is due but pleads that it is due not to the plaintiff or applicant or the defendant or respondent, as the case may be, but to a third person, or pleads that the provisions of this Act have not been complied with, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the party aforesaid pays into Court the amount admitted to be due or such reasonable portion of the amount as the Court may direct.

(4) Where such a payment is made and the plea is that the rent to the extent admitted is not due to the plaintiff or applicant or the defendant or respondent, as the case may be, but to a third person, the Court shall forthwith cause notice of the payment to be served on the third person.

Unless the third person, within three months from the receipt of the notice, institutes a suit before the Civil Court against the plaintiff or applicant or the defendant or respondent and therein obtains an order restraining payment, the amount in deposit shall be paid out to the plaintiff or applicant or the defendant or respondent, as the case may be, on his application.

Nothing in this sub-section shall affect the right of any person to recover by suit in a Civil Court from the plaintiff or applicant or the defendant or respondent, as the case may be, any payment made to him under it.

(5) In any suit, application or proceeding under this Act to recover rent or to contest distraint or the right of sale of a holding, if a party admits that rent is due from him to the plaintiff or applicant or the defendant or respondent, as the case may be, but pleads that the amount claimed is in excess of the amount due, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea unless the party aforesaid pays into Court the amount so admitted to be due or such reasonable portion of the amount as the Court may direct.

(6) If any suit or application between landholder and ryot as such is adjusted wholly or in part by any lawful agreement or compromise, or if the defendant or respondent satisfies the plaintiff or applicant in respect to the whole or any part of the matter of the suit or application, the Court may pass

a decree or order in accordance with such agreement, compromise or satisfaction, so far as it relates to the suit or application, but may refuse to do so if, for reasons to be recorded, the Court considers such agreement, compromise or satisfaction, to be unfair and inequitable.

(7) A decree or order passed in accordance with any lawful agreement, compromise or satisfaction shall be final so far as it relates to so much of the subject-matter of the suit or application as is dealt with by such agreement, compromise or satisfaction.

Joindor of ryots in applications for commutation, enhancement or reduction of rent.

[1] [**193.** (1) An application for commutation, enhancement or reduction of rent may be made against or by any number of ryots collectively :

Provided that all such ryots are ryots of the same landholder and that all the holdings in respect of which the application is made are situated in the same village and that the grounds of commutation, enhancement or reduction, as the case may be, are the same :

Provided also that, if it appears to the Revenue Court that the application cannot be conveniently disposed of jointly, the Court may, at any time before the first hearing, of its own motion or on the application of any of the parties, or , at any subsequent stage if the parties agree, order separate trials of the application or make such other order as may be necessary or expedient.

(2) No order shall be passed in any application under sub-section (1) affecting the interests of any person unless the Court is satisfied that the person has had an opportunity of appearing and being heard.

(3) The order shall specify the extent to which each of the ryots is affected thereby.]

[2] [**194 to 196**]. * * * *]

Court to give receipt.

[3] [**197.** When a party makes a payment under sub-section (3) or sub-section (5) of section 192 or pays into Court in any suit, application or proceeding under this Act any amount as due from him to the landholder or person claiming under the landholder, the court shall give the party aforesaid a receipt and the receipt so given shall operate as an acquittance in the

[1] This section was substituted for the original section 193 by section 112 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] Sections 194, 195 and 196 were omitted by section 113, *ibid.*

[3] This section was substituted for the original section 197 by section 114, *ibid.*

same manner and to the same extent as if it had been given by the person lawfully entitled to the rent or by the landholder or person claiming under the landholder, as the case may be.]

[1] [**198 and 199.** * * * *]

Landholders who may be parties.

200. [2] [(1) An application for commutation, enhancement or reduction of rent or for alteration of rent with reference to area, shall be made only by or against the landholder in possession of the estate or the part concerned, as the case may be :

Provided that—

(i) where it appears that such landholder is not the owner of the estate or the part concerned, notice of the application shall, at the expense of the applicant, be given by the Revenue Court to the owner who shall be made a party to the application ; and

(ii) where such landholder is not the owner of the estate or the part concerned and is unwilling to make an application for commutation, enhancement or alteration of rent, the owner may make such application making the landholder in possession a party thereto ; but any rent which may be fixed by the Revenue Court in such application shall be payable only to the landholder entitled to possession of the estate or the part concerned.]

(2) Proceedings under [3] [Chapter VIII] shall be taken against the landholder in possession, but if such landholder is not also the owner, the latter shall be made a party to the proceedings.

(3) Either the owner or the landholder, where the landholder entitled to the present possession of the estate is not the owner thereof, may as andholder make an application under sections 164, 168 or 186, but notice of the application shall be given to the other.

Transfer of decree or order passed by Revenue Court for payment of money.

[4] [**201.** A decree or order for payment of money passed by a Revenue Court shall not be transferred to any Court other than a Civil Court for execution.]

[5] [**202.** * * * *]

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[1] Sections 198 and 199 were omitted by section 115 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] This sub-section was substituted for the original sub-section (1) by section 116 (i), *ibid.*

[3] The word and figures were substituted for the word and figures " Chapter VII " by section 116 (ii), *ibid.*

[4] This section was substituted for the original section 201 by section 117, *ibid.*

[5] Section 202 was omitted by section 118, *ibid.*

(*Chapter XV.—Jurisdiction and Procedure.*)

Regard to be paid by Courts to entries in record-of-rights.

203. (1) Where for any local area a record-of-rights has been prepared and finally published under sub-section (2) of section 166 or sub-section (3) of section 170, in all suits between landholder and ryot as such, the plaintiff shall annex to the plaint or, if for any cause which the Court deems sufficient he fails to do so, shall produce within a reasonable time to be fixed by the Court, a certified copy of any entry in the record-of-rights relating to the land in respect of which the suit is brought.

(2) In deciding such suits the Court shall have regard to the entries produced under sub-section (1), unless such entries have been proved to be incorrect, and when the Court passes a decree at variance with such entries it shall record its reasons for so doing.

(3) No fee shall be charged for the grant of certified copies of entries in a record-of-rights required for the purpose specified in sub-section (1).

(4) In the case of such suits, the following clause shall be deemed to be added to [1] [rule 11 of Order VII] of the Code of Civil Procedure, [2] [1908] as clause (*e*), namely :— Central Act V of 1908.

(*e*) In any suit to which section 203 of the Madras Estates Land Act, 1908, applies, if the certified copy therein mentioned is not annexed to the plaint and the plaintiff, on being required by the Court to produce it, fails to do so within the time allowed by the Court. Madras Act I of 1908.

Power of District Collector and Board of Revenue to distribute business and to withdraw and transfer cases.

204. (1) The District Collector may, by written order, distribute, in such manner as appears fit, any business cognizable under this Act by any [3] [Collector] in the district and by like order he may withdraw any case pending before such [3] [Collector] and either dispose of it himself, or by written order refer it for disposal to any other [4] [Collector] in the district.

(2) The Board of Revenue shall have the like powers of distribution, withdrawal and reference in respect of all District Collectors and, notwithstanding any order of the District Collector passed under sub-section (1), in respect of [5] [Collectors] subordinate to him.

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[1] These words and figures were substituted for the word and figures "section 54" by section 119 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] These figures were inserted by *ibid.*

[3] This word was substituted for the words "Collector or other Revenue-officer" by section 3 (2), *ibid.*

[4] The word "Collector" was substituted for the words "Collector or Revenue-officer" by *ibid.*

[5] This word was substituted for the word "Revenue-officers" by *ibid.*

(*Chapter XV.—Jurisdiction and Procedure.*)

Power to call for and revise proceedings of Collectors.

205. The Board of Revenue or the District Collector may call for the record of any proceeding before a [1] [Collector] from whose decision no appeal lies, if such officer appears to have exercised a jurisdiction not vested in him by law, or to have failed to exercise a jurisdiction so vested, or while acting in the exercise of his jurisdiction to have contravened some express provision of law affecting the decision on the merits, where such contravention has produced a serious miscarriage of justice; and the Board of Revenue or the District Collector, as the case may be, may, after hearing the parties if they attend, pass such order as seems fit.

Power to invest any person with powers of Collector.

206. The [2] [State Government] may invest any [3] [person] with all or any of the powers of a Collector, for any local area, in respect of all or any classes of original suits or proceedings instituted under this Act, and may withdraw such powers, and the decisions passed by such [3] [person] shall be subject to appeal as if they were the decisions of the Collector who would have taken cognizance of the suits or proceedings if [4] [such person had not been so invested].

Appointment of additional District Collectors.

207. The [2] [State Government] may appoint an officer in addition to the District Collector, to exercise all or any of the powers of a District Collector under this Act.

District Collector and Collectors for scheduled districts.

208. In the scheduled districts of Ganjam and Vizagapatam the Agent to the Governor, and in the scheduled districts of Godavari the Government Agent, shall for the purposes of this Act be the District Collector, and the Asistant Agents in these districts shall for the same purposes be Collectors.

Place of institution of suits or proceedings.

209. [5] [(1) All suits, applications or proceedings cognizable by a Collector under this Act shall be brought, made or taken in the revenue division in which the holding or any portion of the holding in connexion with which the suit is brought, the application is made or the proceedings are taken, is situated.]

(2) Subject to the orders of a District Collector, a Collector [6] [* * * *] may sit for the disposal of suits, [7] [applications] and proceedings under this Act in any place within the district.

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[1] The word "Collector" was substituted for the word "Revenue-officer" by section 3 (1) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This word was substituted for the words "Revenue or Judicial officer" by section 120 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[4] These words were substituted for the words "the Revenue or Judicial officer had not been so invested" by section 120 (ii), *ibid.*

[5] This sub-section was substituted for the original sub-section (1) by section 121 (i), *ibid.*

[6] The words "or other Revenue-officer" were omitted by section 121 (ii), *ibid.*

[7] This word was inserted by *ibid.*

CHAPTER XVI.

LIMITATION.

Limitation for suits, etc.

[1] [210.] Subject to the provisions of the next following section, every suit instituted, appeal presented, and application made after the period of limitation specified therefor in the schedule hereto annexed or in section 191, shall be dismissed, although limitation has not been set up as a defence.

Application of the Indian Limitation Act, 1908.

[2] [211. Subject to the provisions of this Chapter, the provisions of the Indian Limitation Act, 1908, except sections 6, 7, 8, 9, 19 and 20 shall apply to all suits, appeals and applications mentioned in section 210.] Central Act IX of 1908.

CHAPTER XVII.

SUPPLEMENTAL.

Penalties.

Penalties for illegal interference with produce, etc.

212. (1) If any person—

(*a*) under colour of this Act dishonestly distrains, sells or causes to be sold, any property, or

(*b*) resists a distraint duly made under this Act, or forcibly or clandestinely removes any produce duly distrained under this Act or makes a fraudulent conveyance of property to prevent distress for arrears ; or

(*c*) except with the authority or consent of the ryot unlawfully prevents or attempts to prevent the reaping, gathering, storing, removing or otherwise dealing with any produce of a holding ; or

(*d*) having been ejected under [3] [section 163-A] from ryoti land in any estate occupies the same or any portion of the same land without the landholder's consent ; [4] [or]

[5] [(*e*) wilfully and without lawful excuse obstructs any entry or measurement under section 17-A]

he shall be liable on conviction before a magistrate not below the rank of a magistrate of the second class to fine which may extend to five hundred rupees.

(2) Any person who abets the doing of any act mentioned in sub-section (1) shall be deemed to have abetted an offence within the meaning of the Indian Penal Code. Central Act XLV of 1860.

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[1] Sub-section (1) of section 210 was renumbered as section 210 and sub-section (2) was omitted by section 122 of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] This section was substituted for the original section 211 by section 123, *ibid.*

[3] The word, figures and letter were substituted for the word and figures " section 163 " by section 124 (i), *ibid.*

[4] This word was inserted by *ibid.*

[5] Clause (*e*) was inserted by section 124 (ii), *ibid.*

(3) Persons entering the apartments of women or forcing open the outer doors of dwelling-houses contrary to the provisions of this Act shall be deemed to have committed house trespass within the meaning of the Indian Penal Code.

Central Act XLV of 1860.

General Right of Suit.

213. (1) Any person deeming himself aggrieved, (*a*) by any proceedings taken under colour of this Act, or (*b*) by neglect or breach of any of its provisions, shall be at liberty to seek redress by filing a suit for damages before the Collector. General right of suit for damages.

(2) This section shall not be deemed to bar any right of action in a Civil Court in any case not taken out of its jurisdiction by this Act.

(3) Provided always that any person who files a suit for damages under sub-section (1) shall not be entitled to file a suit in respect of the same cause of action before a Civil Court.

Agents of Landholders.

214. (1) Any act, appearance, or application before [1][the Board of Revenue, or any District Collector, Collector or officer] which is required or authorized by this Act to be made or done by a landholder, may be made or done also by an agent empowered in this behalf by a written authority under the hand of such landholder. Power of landholder to act through agent.

(2) Every notice required by this Act to be served on or given to a landholder shall, if served on or given to an agent empowered as aforesaid to accept service of or receive the same on behalf of the landholder, be as effectual for the purposes of this Act as if it had been served on or given to the landholder in person.

(3) Every document required by this Act to be signed or certified by a landholder, [2][* * * *] may be signed or certified by an agent of the landholder authorized in writing in that behalf.

Rules under Act.

215. [3][The [4](State Government) may, after previous publication, make rules for the purpose of carrying out the provisions of this Act. Power of State Government to make rules.

[1] These words were substituted for the words " any Collector or officer " by section 3 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] The words " except an instrument appointing or authorizing an agent " were omitted by section 9 of the Madras Estates Land (Amendment) Act, 1909 (Madras Act IV of 1909), which shall be deemed to have come into force with effect from the first day of July 1908.

[3] These words were substituted for the words " The Local Government may, after previous publication, make rules consistent with this Act " by section 125 (i) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[4] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

(*Chapter XVII.—Supplemental.*)

In particular and without prejudice to the generality of the foregoing provison, the [1] (State Government) may make rules—]

(1) to regulate the procedure to be followed by [2] [District Collectors and Collectors] in the discharge of any duty imposed upon them by or under this Act, and may by such rules confer upon any such officer—

(*a*) any power exercised by a Civil Court in the trial of suits ;

(*b*) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Madras Survey and Boundaries Act, [3] [1923] ; [4] [* *] Madras Act VIII of 1923.

(*c*) power to cut and thresh the crops on any land and weigh or measure the produce, with a view to estimating the capabilities of the soil ; [5] [and]

[6] [(*d*) power to consolidate applications under section 39-A for purposes of joint enquiry :]

[7] [(1-A) for determining the ryot or ryots who may join in an application under section 39-A, and the conditions under which they may join in such an application :]

(2) prescribing forms and the mode of service of notices under this Act where no form or mode is prescribed by this or any other Act :

(3) as to the procedure to be followed in applications under this Act :

(4) as to the fees, costs and charges to be paid for the purposes of this Act :

(5) for the use of threshing floors, cattle-stands, village sites and other lands set apart for communal purposes [8] [and of the beds and bunds of tanks, supply, drainage, surplus or irrigation channels] :

(6) for determining what are to be deemed staple food-crops in any local area and for the guidance of officers preparing price-lists :

(7) for the sale of distrained crops or products which are in their nature speedily perishable :

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] These words were substituted for the words " Collectors and Revenue-officers " by section 3 (2) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[3] These figures were substituted for the figures " 1897 " by section 125 (ii), *ibid.*

[4] The word " and " was omitted by section 3 (i) (*a*) of the Madras Estates Land (Amendment) Act, 1936 (Madras Act VI of 1936).

[5] This word was inserted by *ibid.*

[6] Sub-clause (*d*) was inserted by section 3 (i) (*b*), *ibid.*

[7] Clause (1-A) was inserted by section 3 (ii), *ibid.*

[8] These words were added by section 125 (iii) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

(Chapter XVII.—Supplemental. Schedule.)

(8) for the survey of lands and the preparation of a record-of-rights and of a settlement record of rent :

(9) prescribing the superior revenue authority to whom appeals shall lie from orders of a [1] [Collector] on objections to a preliminary record of settlement of rent : [2] [and]

(10) prescribing the form in which registers shall be maintained [3] [of suits and applications disposed of under this Act.]

(11) [4] [* * * *]

[5] [SCHEDULE.

(*See* sections 189 and 210.)

PART A.—SUITS TRIABLE BY A COLLECTOR.

Serial number.	Section of Act.	[6] [Description of suit.]	Period of limitation.	Time from which period begins to run.	Authority, if any, to which an appeal lies.
(1)	(2)	(3)	(4)	(5)	(6)
1	55	To obtain a patta ..	Three months.	The date of the expiration of three months after demand.	District Court.
2	56	To enforce acceptance of patta.	Three months.	The date of the expiration of one month from failure to accept.	District Court.
3	77	By landholder to recover arrears of rent.	Three years ..	The date when the arrear becomes due or, where there has been a suit or other proceeding for the purpose of ascertaining the rent, the date of the decree or order by which the rent is finally ascertained, whichever date may be later.	District Court.
4	88	For damages when distrained property is stolen, lost, damaged or destroyed.	Six months ..	The date when the property was stolen, lost, damaged or destroyed.	District Court.
5	95 (1) and (2)	To contest distraint.	Fifteen days ..	The date of service of notice requiring either the payment of the amount demanded or the institution of a suit to contest the distraint.	District Court.

[1] This word was substituted for the word "Revenue-officer" by section 3 (1) of the Madras Estates Land (Amendment) Act, 1934 (Madras Act VIII of 1934).

[2] This word was added by section 125 (iv), *ibid.*

[3] These words were substituted for the words "by a Collector of suits and applications heard and decided by him : and" by section 125 (v), *ibid.*

[4] Clause (11) was omitted by section 125 (vi), *ibid.*

[5] This Schedule was substituted for the original Schedule by section 126, *ibid.*

[6] This heading was substituted for the heading "Description of suits" by section 3 (1) of, and the Second Schedule to, the Madras Repealing and Amending Act, [illegible] (Madras Act XIV of 1951).

(*Schedule.*)

PART A.— SUITS TRIABLE BY A COLLECTOR—*cont.*

Serial number. (1)	Section of Act. (2)	[1][Description of suit.] (3)	Period of limitation. (4)	Time from which period begins to run. (5)	Authority, if any, to which an appeal lies. (6)
6	112	To contest the right of sale of a holding.	Thirty days ..	The date of service of notice on the defaulter requiring him to pay the amount due or institute a suit contesting the right of sale.	District Court.
7	127 (2) (c)	For payment of the subsequent rent.	Thirty days ..	The date of sale of the holding.	District Court.
8	136	To recover illegal payments and penalties in respect of such payments as have been exacted.	Six months ..	The date of the payment.	District Court.
9	140	To recover the cost of execution of works of repair to an irrigation work from a dasabandam inamdar.	Three years ..	The date of completion of the works.	District Court.
10	149	To be indemnified against loss of rent when a holding is relinquished.	Six months ..	The commencement of the revenue year succeeding that in which the relinquishment is made.	District Court.
11	151 (1)	To eject a ryot ..	Two years ..	The date on which the right to eject accrued.	District Court.
12	151 (2)	For compensation or for an injunction or for the repair of the damage or waste.	Two years ..	When the damage was done or the waste began.	District Court.
13	213 (1)	For damages not otherwise provided for.	Three months.	The date of the accrual of the cause of action.	District Court.

PART B.— APPLICATIONS TO BE DISPOSED OF BY A DISTRICT COLLECTOR OR COLLECTOR.

Serial number. (1)	Section of Act. (2)	Description of application. (3)	Period of limitation. (4)	Time from which period begins to run. (5)	Authority, if any, to which an appeal lies. (6)
1	12 (2)	For fixing the compensation payable in respect of trees belonging to a landholder which are acquired by the ryot.	None	None	District Collector.
2	15	As to the right to make an improvement or as to whether a particular work is or will be an improvement.	None	None	District Collector.
3	16	To register improvements.	None [subject to sub-section (3) of section 16].	None [subject to sub-section (3) of section 16].	Against refusal to register — District Collector.
4	17	For recording evidence relating to an improvement.	None ..	None	Against refusal to record evidence —District Collector.

[1] This heading was substituted for the heading "Description of suits" by the Madras Repeating and Amending Act, 1951 (Madras Act XIV of 1951)

(*Schedule.*)

PART B.—APPLICATIONS TO BE DISPOSED OF BY A DISTRICT COLLECTOR OR COLLECTOR—*cont.*

Serial number.	Section of Act.	Description of application.	Period of limitation.	Time from which period begins to run.	Authority, if any, to which an appeal lies.
(1)	(2)	(3)	(4)	(5)	(6)
5	20-A (1)	For declaring that any communal land is not required for its original purpose and directing that it be used for any other communal purposes or be converted into Government ryotwari or landholder's ryoti land.	None	None	Against a declaration that the land is not required for its original purpose or an order directing that the land be used for any other communal purpose—Board of Revenue. Against an order directing the conversion of the land into Government ryotwari or landholder's ryoti land—District Court.
	25	For settlement of a fair and equitable rent.	None ..	None	District Collector.
7	30	For enhancement of rent payable by a ryot.	None (subject to sections 37, 41 and 177).	None (subject to sections 37, 41 and 177).	District Court.
8	32 (2)	Application by landholder to register improvement.	One year	The date of completion of the improvement.	Against registration or refusal to register—District Collector.
9	32 (2)	Application by landholder to enforce contract for payment of additional rent on account of improvement registered under section 32 (2).	One year ..	Date of registration.	District Collector.
10	32 (3)	For revision of enhancement of rent.	None	None	District Collector.
11	38	For reduction of rent.	None (subject to sections 39, 41 and 177).	None (subject to sections 39, 41 and 177).	District Court.
12	40	For commutation of rent.	None	None	Against the fixing of the valuation at time of commutation in so far as it determines the sum to be paid as money-rent—District Court.
13	42 (2)	For alteration of rent with area.	None	None	District Collector.
14	54	For permission to file patta in the office of Collector or other officer.	One year ..	The commencement of the revenue year to which the patta relates.	District Collector.
15	65	For compensation for withholding receipt.	Three months	The date of payment.	District Collector.
16	68	For permission to deposit rent in the office of Collector.	None	None	None.
17	71 (3)	For repayment of deposited rent.	None	None	None.
18	74	For deputation of officer to make the appraisement or division.	None	None	None.

(*Schedule.*)

PART B.—APPLICATIONS TO BE DISPOSED OF BY A DISTRICT COLLECTOR OR COLLECTOR—*cont.*

Serial number.	Section of Act.	Description of application.	Period of limitation.	Time from which period begins to run.	Authority, if any, to which an appeal lies.
(1)	(2)	(3)	(4)	(5)	(6)
19	89	By third person having a right or interest in distrained property.	Any time before the date of sale.	None	None.
20	90	For delivery of property fraudulently conveyed to prevent distress or for payment of the value of such property.	Six months ..	The date on which the arrear became due.	None.
21	90	For restoration of distrained property forcibly or clandestinely taken away or for payment of the value of such property.	Thirty days ..	The date on which the distrained property was forcibly or clandestinely removed.	None.
22	102	To obtain a certificate from the Collector for the recovery from the defaulting purchaser of the deficiency in price and costs resulting from second sale.	Three months.	The date of the certificate of the sale officer.	District Court.
23	106 (5)	For determination of expenses.	Three months.	The date of the sale officer's decision.	None.
24	114	For sale of holding if no suit contesting the right of sale has been instituted.	Forty-five days.	The posting by the Collector of intimation of service under section 113.	None.
25	114	For sale of holding if a suit contesting the right of sale has been instituted.	Thirty days ..	The date of disposal or withdrawal of the suit.	None.
26	123	To obtain certificate from the Collector for the recovery from the defaulting purchaser of the deficiency in price and costs resulting from second sale.	Three months.	The date of the certificate of the sale officer.	District Court.
27	131	For depositing sum to set aside sale of holding.	Forty-five days.	The date of sale.	None.
28	131	To set aside sale of holding.	Before the grant of a certificate of sale.	None	None.
29	133	For grant of time to pay arrears due.	Before the issue of an order for sale under section 116.	None	None.
30	137	For the determination of the ayacut under an irrigation work.	None	None.	Board of Revenue in the case of major irrigation works and District Collector in the case of minor irrigation works.

(*Schedule.*)

PART B.—APPLICATIONS TO BE DISPOSED OF BY A DISTRICT COLLECTOR OR COLLECTOR—*cont.*

Serial number.	Section of Act.	Description of application.	Period of limitation.	Time from which period begins to run.	Authority, if any, to which an appeal lies.
(1)	(2)	(3)	(4)	(5)	(6)
31	137-A	For sanction to extend the ayacut of an irrigation work.	None	None	Board of Revenue in the case of major irrigation works and District Collector in the case of minor irrigation works.
32	137-C	For reclassification of irrigated or garden land as unirrigated land.	None ..	None	Board of Revenue in the case of major irrigation works and District Collector in the case of minor irrigation works.
33	138	For obtaining an order for the repair of an irrigation work.	None ..	None	Against any order under section 139 (1) or (2)—Board of Revenue in the case of major irrigation works and District Collector in the case of minor irrigation works.
34	141	For temporary reduction of rent.	None	None	Board of Revenue in the case of major irrigation works and District Collector in the case of minor irrigation works.
35	143 (1)	For any relief under this sub-section read with any of the preceding sections specified in items 30 to 34.	Same as for the appropriate section.	Same as for the appropriate section.	Same as for the appropriate section.
36	..	Any application under Chapter VIII not otherwise provided for.	Six months ..	The date on which the right to the relief claimed arose.	Board of Revenue in the case of orders passed by the District Collector and District Collector in the case orders passed by the Revenue Divisional Officer.
37	145 (9)	For apportionment of rent where the distribution made by the landholder is not assented to by any ryot.	Three months.	The date of communication of the distribution to the ryot.	District Collector.
38	145 (9)	For apportionment of rent where the landholder has delayed distribution for over six months.	None	None	District Collector.
39	149 (1)	For revision of the apportionment of rent made by a landholder.	Six months ..	The date of communication of landholder's decision to the ryot.	District Collector.
40	158	For issue of warrant to enter upon and take possession of the premises.	Three months.	The date of the expiration of the revenue year for which the arrear was due.	District Collector.

(*Schedule.*)

PART B.—APPLICATIONS TO BE DISPOSED OF BY A DISTRICT COLLECTOR OR COLLECTOR—*cont.*

Serial number.	Section of Act.	Description of application.	Period of limitation.	Time from which period begins to run.	Authority, if any, to which an appeal lies.
(1)	(2)	(3)	(4)	(5)	(6)
41	160	To set aside warrant of eviction.	Fifteen days or the period extended by the Collector under section 159.	The date of service of the warrant.	District Collector.
42	163, 1st paragraph.	For determination of a fair and equitable rent.	None ..	None	District Collector.
43	163, 2nd paragraph.	For determining sum payable as damages by a person unauthorizedly occupying land.	One year ..	The end of the revenue year in which the occupation was made.	District Collectors.
44	185-, B (2) Proviso.	For determining the amount of compensation.	None ..	None	District Collector.

MADRAS ACT No. VI OF 1909.[2]

[THE ARNI JAGIR ACT, 1909.]

[21*st December* 1909.]

An Act to include the Arni Jagir in the Schedule to the Madras Impartible Estates Act, 1904 (Madras Act II of 1904.]

Preamble. WHEREAS it is expedient to declare that the Arni Jagir is impartible and that the Jagirdar cannot exercise unrestricted powers of alienation in respect thereof; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Arni Jagir Act, 1909.

Inclusion of Arni jagir in Schedule to Madras Act II of 1904. 2. The Arni jagir in the District of North Arcot shall be included in the Schedule to the Madras Impartible Estates Act, 1904, as number 11 under the head of North Arcot and be subject to the provisions of that Act. Mad. Act II 1904.

[1] This item was added by section 11 of the Madras Estates Land (Third Amendment Act, 1936 (Madras Act XVIII of 1936).

[2] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1909, Pt. IV, p. 222 and for Proceedings in Council, *see ibid*, p. 256.

MADRAS ACT No. IV OF 1911.[1]

[THE MADRAS LIMITED PROPRIETORS ACT, 1911.]

[18*th July* 1911.]

An Act to amend the Law relating to Proprietors of Estates.

Preamble.

WHEREAS it is expedient that certain persons who are not proprietors as defined in the Madras Proprietary Estates' Village-service Act, 1894, the Madras Hereditary Village-offices Act, 1895, and the Madras Survey and Boundaries Act, 1897,[2] should be enabled to exercise the powers and discharge the duties of proprietors under the said Acts; and whereas it is also expedient to make provision for the recovery of arrears of revenue from such persons; It is hereby enacted as follows :—

Mad. Act II of 1894. Mad. Act III of 1895. Mad. Act IV of 1897.

Short title.

1. This Act may be called the [3]Madras Limited Proprietors Act, 1911.

Repeal.

2. The proviso to the definition of proprietor in section 4 of the Madras Proprietary Estates' Village-service Act, 1894, and in section 3 of the Madras Survey and Boundaries Act, 1897,[2] is hereby repealed.

Mad. Act II of 1894. Mad. Act IV of 1897.

Definitions.

3. In this Act, unless there be something repugnant in the subject or context, "Estate" and "Village" respectively mean an estate and a village as defined in the Madras Proprietary Estates' Village-service Act, 1894.

Mad. Act II of 1894.

Application to Collector for registration as proprietor.

4. Where any person is entitled otherwise than as owner to collect the rents of the whole of an estate or any portion thereof consisting of one or more villages by virtue of any transfer from an owner or of any decree or order of a competent court or of any rule or provision of law and is not the proprietor as defined in section 4 of the Madras Proprietary Estates' Village-service Act, 1894, he may apply to the District Collector to be registered as proprietor in respect of such estate or portion for all or any of the purposes of the Madras Proprietary Estates' Village-service Act, 1894, the Madras Hereditary Village-offices Act, 1895, and the Madras Survey and Boundaries Act, 1897.[2]

Mad. Act II of 1894. Mad. Act III of 1895. Mad. Act IV of 1897.

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1911, Pt. IV, p. 4; for Report of Select Committee, *see ibid*, 1911, Extraordinary, p. 39; for Proceedings in Council, *see ibid*, 1911, Pt. IV, pp. 80, 332, and 449.

[2] The Act has been repealed. *See* now the Madras Survey and Boundaries Act, 1923 (Madras Act VIII of 1923.)

[3] This word was inserted by section 3 (1) of and the Second Schedule to the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951.)

Procedure on such application.

5. (1) The District Collector shall give notice of the application to the registered proprietor and such other persons as appear to him to be interested in the result of the application and, after giving them an opportunity of being heard and making such inquiry as he thinks fit, may register the applicant as proprietor for all or any specified purposes of the said Acts or may refuse registry :

Provided that where the applicant is entitled to collect the rents by virtue of a decree or order of a competent court or of any rule or provision of law, it shall be open to the District Collector to register him as proprietor without giving notice or holding any inquiry.

(2) Subject to the provisions of sections 7, 11 and 13 and to any decree of a competent civil court, such registration shall remain in force so long as the applicant is entitled to collect the rents.

Procedure in case of dispute.

6. If the District Collector is satisfied that there exists a substantial dispute regarding the applicant's right to collect the rents, he shall require the applicant to establish his right in a civil court, unless for other reasons he is of opinion that the application should not be granted.

Collector may vary or cancel registration.

7. Any registration made by the District Collector under section 5 may be cancelled or varied by him at any time after notice to the persons concerned.

Effect of registration.

8. During the time that any registration under this Act remains in force in respect of an estate or portion of an estate the person so registered shall exercise the powers and discharge the duties of a proprietor under the Madras Proprietary Estates' Village-service Act, 1894, the Madras Hereditary Village-offices Act, 1895, and the Madras Survey and Boundaries Act, 1897,[1] in such estate or portion in respect of the purposes for which he is registered, and no other person shall act or be treated as proprietor in respect of those purposes in the said estate or portion.

Mad. Act II of 1894. Mad. Act III of 1895. Mad. Act IV of 1897.

Liability of the person registered to pay Government dues.

9. (1) Any person registered as proprietor under this Act by virtue of any transfer made after the commencement of this Act (hereinafter called the transferee) shall in relation to the Government be deemed to be a landholder in respect of the estate or portion of an estate concerned for the purposes of the Madras Revenue Recovery Act, 1864, and shall be liable to be proceeded against under that Act for all sums which are recoverable thereunder from a landholder and which at the time of the registration may be due on such estate or portion as the case may be, or which may become due thereon at any time while such registration remains in force.

Mad. Act II of 1864.

[1] The Act has been repealed. *See* the Madras Survey and Boundaries Act, 1923 (Madras Act VIII of 1923).

(2) If there is any valid agreement between the owner and the transferee of a portion of an estate as to the amount recoverable in respect of such portion, the said amount shall be determined in accordance with such agreement, except where the agreement appears to the District Collector to be unreasonable. In cases where there is no such agreement, or where the agreement appears to be unreasonable, the District Collector shall fix the said amount in the manner laid down in section 45 of the Madras Revenue Recovery Act, 1864.

Mad. Act II of 1864.

(3) Nothing in this section shall relieve the transferor or his legal representative from any liability under the Madras Revenue Recovery Act, 1864.

Mad. Act II of 1864.

Procedure in the case of default.

10. Where in consequence of the default of the transferee or his legal representative registered as proprietor under this Act it becomes necessary for the recovery of an arrear to proceed against the estate or portion of an estate in respect of which he is registered as proprietor, the Collector or other officer empowered by the Collector in that behalf shall cause a copy of the notice prescribed in section 36 of the Madras Revenue Recovery Act, 1864, to be served also upon the owner of the estate not less than one month before the sale.

Mad. Act II of 1864.

Cancellation of registration in case of default.

11. Where in consequence of the default of the transferee or his legal representative registered as proprietor under this Act the owner of the estate pays the arrears due by the defaulter or any part of the estate is sold for the recovery of the arrears, the registration of the defaulter as proprietor under this Act may be cancelled by the District Collector and the defaulter shall, from the date of the cancellation and in cases where it has been appealed against from the date of the appellate order confirming the same, cease to exercise the powers and discharge the duties of a proprietor and cease to be a landholder for the purposes of the Madras Revenue Recovery Act, 1864.

Mad. Act II of 1864.

Revival of powers and duties of ordinary proprietor on expiry of registry under this Act.

12. From the date on which any registration under this Act ceases for any cause to be in force the proprietor then registered under the Madras Land Registration Regulation, 1802, or the Madras Land Revenue Assessment Act, 1876, shall possess the powers and be subject to the duties conferred and imposed upon the proprietor by the Madras Proprietary Estates' Village-service Act, 1894, the Madras Hereditary Village-offices Act, 1895, and the Madras Survey and Boundaries Act, 1897.[1]

Mad. Reg. XXVI of 1802.

Mad. Act I of 1876

Mad. Act II of 1894.

Mad. Act III of 1895.

Mad. Act IV of 1897.

[1] Now the Madras Survey and Boundaries Act, 1923 (Madras Act VIII of 1923).

District Collector's orders to be in writing.

13. (1) The District Collector shall record his reasons in writing for every order passed by him under this Act. A copy of the order shall be despatched by registered post to all parties affected thereby whose addresses can be ascertained.

Appeal to Board of Revenue.

(2) Against every such order an appeal shall lie to the Board of Revenue within two months from the date of despatch.

Barring of suits and applications for an injunction.

14. No suit or application shall lie for an injunction to restrain a District Collector from proceeding under this Act, nor shall [1][the Government] or any officer of [2][the Government] be made a party to any suit or be liable in respect of anything done or purporting to be done under this Act in good faith.

Power to make rules.

15. Subject to the approval of the [3][State Government] the Board of Revenue may make rules not inconsistent with this Act for carrying out the purposes of the Act.

MADRAS ACT No. V OF 1911.[4]

[THE MADRAS HACKNEY CARRIAGE ACT, 1911.]

[*8th August* 1911.]

An Act to amend and declare the Law for the Regulation of Hackney Carriages [5][* * * *]

Preamble.

WHEREAS it is expedient to amend and declare the law relating to the regulation of hackney carriages; It is hereby enacted as follows :—

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[1] The words " the Crown " were substituted for the words " the Secretary of State for India in Council " by the Adaptation Order of 1937 and the word " Government " was substituted for " Crown " by the Adaptation Order of 1950.

[2] The words " the Crown " were substituted for the word " Government " by the Adaptation Order of 1937 and the word " Government " was substituted for " Crown " by the Adaptation Order of 1950.

[3] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1911, Extraordinary, p. 37; for Report of Select Committee, *see ibid*, 1911, Pt. IV, p. 285; for Proceedings in Council, *see ibid*, 1911, Pt. IV, pp. 84 and 463.

[5] The words " in the Town of Madras " were omitted by section 3 of the Madras State Carriages and Hackney Carriage (Amendment) Act, 1924 (Madras Act III of 1924).

(Chapter I.—Preliminary.)

CHAPTER I.

PRELIMINARY.

Title.

1. (1) This Act may be called the Madras Hackney Carriage Act, 1911.

[1][(2) It extends to the town of Madras.

Local extent.

(3) (i) The [2][State Government] may, by notification extend to such other parts of the Presidency of Madras as it may think fit all or any of the provisions of this Act from a date to be specified in the notification, which shall not be less than three months from the date of the notification.

Provided that no such notification shall be issued unless notice of the proposed extension inviting objections thereto shall have been published not less than two months previously.

(ii) The [2][State Government] may, by notification, cancel or modify any such notification as is referred to in clause (i).]

Repeal.

Mad. Act III of 1879.

2. The Madras Hackney Carriage Act, 1879, is hereby repealed.

Definitions, subject or context,—

3. In this Act, unless there be something repugnant in the

"Commissioner."

(1) "Commissioner" means the Commissioner of Police appointed [3][for the City of Madras].

"Magistrate."

(2) "Magistrate" means any magistrate having local jurisdiction in any area to which this Act extends.

Hackney carriage.

[4][(3) 'Hackney carriage' means any wheeled vehicle (including a cycle-rickshaw) [5 not owned by the State Government] which—

(i) is drawn, pushed or propelled by a man, or is drawn by a horse, bullock or other animal;

(ii) is used for the conveyance of any person; and

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[1] Sub-sections (2) and (3) were substituted for the original sub-sections by section 4, of the Madras State Carriages and Hackney Carriage (Amendment) Act, 1924 (Madras Act III of 1924).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] These words were substituted for the words and figures "under the Madras City Police Act, 1888, by section 3 (1) of, and the Second Schedule to Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

[4] This clause was substituted for the original clause (3) by section 2 (i) (a) of the Madras Hackney Carriage (Amendment) Act, 1949 (Madras Act XXXIII of 1949).

[5] These words were inserted by section 2 of the Madras Hackney Carriage (Amendment) Act, 1951 (Madras Act IX of 1951).

(iii) stands or plies for hire by the hour or day or according to distance.]

[1][* * * * * * *].

"Driver." [1](4) "Driving" includes [2][drawing, pushing or propelling] and "driver" includes any person who drives, [3][draws, pushes or propels] any hackney carriage.

"Horse." [1](5) "Horse" includes mule or pony.

"Year of registration." [1](6) "Year of registration" means the year ending with the thirty-first day of March.

CHAPTER II.

REGISTRATION AND NUMBERING OF HACKNEY CARRIAGES.

Annual registration compulsory. **4.** Every hackney carriage shall be annually registered by the Commissioner.

Application for registry. **5.** (1) Any person who is desirous of having any vehicle registered as a hackney carriage shall apply to the Commissioner, and shall submit such vehicle for such inspection as the Commissioner may direct.

(2) The person in whose name any carriage is registered shall be deemed to be the owner of such carriage for the purposes of this Act.

Right to registry. **6.** Every applicant under section 5 shall be entitled to registration unless the Commissioner is of opinion that the vehicle is not fit for public use: Provided that no vehicle shall be registered in the name of a minor.

[4][Provided further that the Commissioner shall have power—

(i) to limit the number of vehicles of any description which may be registered annually, in which case no vehicle of that description shall be registered in any year in excess of the number so limited;

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[1] Sub-section (4) was omitted and sub-sections (5), (6) and (7) were re-numbered by section 5 of the Madras Stage Carriages and Hackney Carriage (Amendment) Act, 1924 (Madras Act III of 1924).

[2] These words were substituted for the words "dragging or pushing" by section 2 (i) (*b*) of the Madras Hackney Carriage (Amendment) Act, 1949 (Madras Act XXXIII of 1949).

[3] These words were substituted for the words "drags or pushes" by *ibid.*

[4] For the proviso added by section 2 of the Madras Hackney Carriage (Amendment) Act, 1941 (Madras Act I of 1941), the present proviso was substituted and re-enacted permanently by section 3 of, and the Second Schedule to, the Madras Re-enacting (No. II) Act, 1948 (Madras Act VIII of 1948).

(Chapter II.—Registration and Numbering of Hackney Carriages.)

(ii) to refuse to register vehicles of a particular description, in which case no vehicle of that description shall be registered.]

Grant of carriage licence.

7. (1) The Commissioner shall at the time of registration deliver a licence duly signed by him to the applicant.

Currency of licence.

(2) A licence granted under this section shall be in force for the year of registration.

Form of licence.

8. The following particulars shall be entered in the register and in the licence to be given to the applicant :—

First.—The number in the register of the hackney carriage.

Second.—The name and residence of the owner and the place where the carriage is kept.

Third.—A description of the carriage.

Fourth.—The number of horses or other animals to be employed in drawing such carriage and, if the carriage is drawn [1][pushed or propelled] by men, the number of men to be so employed.

Fifth.—The number of passengers such carriage is licensed to carry.

Sixth.—The date of the licence.

Fee for licence.

9. A fee shall be paid to the Commissioner for each licence in accordance with the following scale :—

	RS.	A.
[2] (*a*) For every four-wheeled carriage drawn by two or more horses licensed to carry more than six passengers	10	0
(*b*) For every other four-wheeled carriage drawn by two horses	5	0
(*c*) For every other four-wheeled carriage drawn by one horse or by bullocks	2	0
(*d*) For every two-wheeled carriage drawn by one horse	1	0

[1] These words were substituted for the words " or pushed " by section 2 (ii) of the Madras Hackney Carriage (Amendment) Act, 1949 (Madras Act XXXIII of 1949).

[2] This scale was substituted for the original scale by section 6 of the Madras Stage Carriages and Hackney Carriage (Amendment) Act, 1924 (Madras Act III of 1924).

(*Chapter II.—Registration and Numbering of Hackney Carriages.*)

	RS.	A.
(*e*) For every two-wheeled carriage drawn by one or more bullocks	0	8
(*f*) For every rickshaw [1][cycle-rickshaw], perambulator or other carriage drawn [2] [pushed or propelled] by a man	0	4]

Suspension of licence by Commissioner.

10. The Commissioner may suspend for such period as he thinks fit the licence of any hackney carriage, whenever it appears to him that such carriage or any animal or harness used therewith is unfit for public use.

Transfer of registry.

11. On any transfer of a hackney carriage the transferee shall, if he desires to use it as such, within one week of the date of the transfer, apply to the Commissioner for transfer of the registry giving him the particulars specified in the first hree clauses of section 8.

Notice of change of residence, etc., to be given by licensee.

12. (1) Whenever the owner of a hackney carriage changes his residence, or the place where such carriage is kept, he shall within one week from the date of such change forward his licence and give to the Commissioner a notice in writing signed by him specifying the new residence or place.

Penalty.

(2) Every such owner who neglects to forward his licence and give such notice shall be liable to a fine not exceeding twenty rupees.

Transfers and change of residence to be registered.

13. The Commissioner, on receiving the application or notice specified in either of the two last preceding sections, shall make the necessary alteration in the register and the licence and return the licence ; and a fee of two annas shall be payable in respect thereof.

Penalty for keeping unlicensed hackney carriage.

14. Whoever keeps any hackney carriage, which has not been duly licensed under this Act, shall be liable to a fine not exceeding fifty rupees.

Numbering of hackney carriage.

15. (1) Upon the registration of any hackney carriage the Commissioner shall cause to be painted on some conspicuous part of the carriage or on a plate to be affixed on some conspicuous part of the carriage its number in the register and the number of passengers it is licensed to carry.

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[1] This word was inserted by section 2 (iii) of the Madras Hackney Carriage (Amendment) Act, 1949 (Madras Act XXXIII of 1949).

[2] These words were substituted for the words "or pushed" by *ibid.*

(Chapter II.—Registration and Numbering of Hackney Carriages. Chapter III.—Driver's Licence and Badge.)

(2) If the words or figures so painted become indistinct or are obliterated during the term of the licence, the owner of the carriage shall be bound to produce it before the Commissioner and apply to have such words or figures renewed. If the plate so affixed shall have been lost or stolen, the owner of the carriage shall be bound to apply to the Commissioner to have a new plate affixed. The charge for such painting or new plate shall be four annas. Renewal of inscription or plate.

16. (1) On the expiration or other determination of the period of registration, the owner of every hackney carriage shall cause the plate of such hackney carriage to be delivered to the Commissioner. Return of plate on expiry of licence.

(2) Any person who, after the expiration of the period aforesaid, wilfully omits for fourteen days to deliver the plate to the said officer, shall be liable to a fine not exceeding twenty rupees. Penalty.

17. (1) Every person who shall, for the purpose of deception, use or have any plate resembling or intended to resemble any plate affixed under this Act, shall be punishable with fine which may extend to fifty rupees, and in the case of a subsequent conviction under this section with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to one month. Penalty for using counterfeit plate.

(2) Any police-officer may seize and take away any plate used or had as aforesaid, wheresoever the same may be found, and deliver the same to the Commissioner. Seizure of counterfeit plate.

18. If any hackney carriage stands or plies for hire without a plate or legible inscription as prescribed by section 15, the owner thereof shall be liable to a fine not exceeding twenty rupees. Penalty for plying for hire without plate.

CHAPTER III.

Driver's Licence and Badge.

19. (1) It shall be lawful for the Commissioner to grant a licence to act as driver of any hackney carriage to any applicant whom he may consider fit. Grant of driver's licence.

(2) Every such licence shall contain— Form of licence.

the number of the licence,

the name, place of abode and age of the person to whom such licence is granted,

the description of carriage and animals, if any, to be used therewith, and

the date on which the licence was granted,

and shall bear the signature of the Commissioner.

Currency of licence.

(3) Such licence shall be in force for the year of registration and the fee payable therefor shall be [1][one rupee and eight annas] unless the licence relates solely to a carriage of the description specified in clause (*f*) of section 9, in which case the fee shall be [2] [six annas].

Particulars of licence to be registered.

20. The particulars of every licence which shall be granted under the provisions of section 19 shall be entered in a register by the Commissioner, and every person applying shall be furnished with a certified copy of such particulars on payment of a fee of two annas.

Penalty for driving without licence or lending licence.

21. If at any time fifteen days after the time when a licence should have been obtained any person acts as the driver of a hackney carriage without having a licence in force for the time being, or, having a licence, fails to carry it with him when driving a hackney carriage or transfers or lends it or allows it to be used by any other person, he shall be liable to a penalty not exceeding twenty rupees.

Suspension of licence by Commissioner.

22. The Commissioner may suspend for such period as he thinks fit the licence of the driver of a hackney carriage whenever in his opinion such driver is unfit to be so employed.

Penalty for suffering unlicensed person to drive.

23. The owner of a hackney carriage who knowingly suffers any person, not duly licensed under this Act, to act as driver of such carriage shall be liable to a penalty not exceeding fifty rupees :

Proviso.

Provided that such owner and such unlicensed driver shall be subject to all the provisions of this Act for any act done or omitted to be done by such driver during such employment in like manner as if such driver had been duly licensed.

Supply of badge to driver.

24. (1) The Commissioner shall, at the time of granting a licence to any driver of a hackney carriage, furnish him with a metal badge punched or marked with the number of his licence.

Driver to wear badge.

(2) Every driver to whom such badge is delivered shall, at all times while acting as driver, or while attending before any magistrate, wear such badge exposed to view.

Penalty.

(3) In case any such driver omits to wear such badge exposed to view while acting as driver or attending before a magistrate, he shall be liable to a penalty not exceeding ten rupees.

Renewal of lost or damaged badge.

(4) Whenever the number on any badge becomes indistinct or is obliterated during the term of the licence, and also whenever any badge is lost or stolen, the person to whom the

[1] The words "one rupee and eight annas" were substituted for the words "one rupee" by section 7 of the Madras Stage Carriages and Hackney Carriage (Amendment) Act, 1924 (Madras Act III of 1924).

[2] The words "six annas" were substituted for the words "four annas" by *ibid.*

licence relating to any such badge has been granted shall deliver such badge or notify its loss and shall produce such licence to the Commissioner, and such person shall then be entitled to have a new licence and badge delivered to him upon payment of [1][the fee mentioned in sub-section (3) of section 19]. Such new licence shall be in force for the year of registration.

(5) Every person licensed under the authority of this Act who uses or wears the badge granted to him after the writing thereon has become indistinct or obliterated shall be liable to a fine not exceeding ten rupees. Penalty.

25. (1) Upon the expiration or other determination of any licence granted to a driver under this Act he shall deliver such licence and his badge to the Commissioner. Return of expired licence and badge.

(2) Every driver who neglects for three days to deliver such expired licence and badge to the Commissioner, and also every person who uses, or wears, or fraudulently detains any such expired licence or badge, and every person to whom any expired licence or badge has been delivered who lends, gives away, mortgages or sells such badge to any other person and every person who details, wears or uses any licence or badge of any other person shall be liable to a penalty not exceeding twenty rupees. Penalty.

26. Every person who for the purpose of deception uses or wears any badge resembling or intended to resemble any badge granted under the authority of this Act shall be punishable with fine which may extend to fifty rupees, and in the case of a subsequent conviction under this section with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month. Penalty for using counterfeit badge.

27. Any police officer may seize and take away any expired or counterfeit badge, or any badge in respect of which an offence under section 25 has been committed, wheresoever the same may be found, and deliver the same to the Commissioner. Seizure of expired or counterfeit badge.

28. Whenever any driver is summoned to appear before any magistrate to answer any charge preferred against him under this Act, he shall carry with him his licence, and produce the same if required so to do; and any driver who on such requisition refuses to produce such licence shall be liable to a fine not exceeding five rupees. Penalty for failing to produce licence before magistrate.

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[1] The words and figures within square brackets were substituted for the words and figure "half the fee mentioned in section 9" by section 8 of the Madras Stage Carriages and Hackney Carriage (Amendment) Act, 1924 (Madras Act III of 1924).

(Chapter III.—Driver's Licence and Badge. Chapter IV.—Fares, Hiring and Plying for Hire.)

Convictions under Act to be endorsed on licence.

29. On the conviction of any driver for any offence under this Act the magistrate shall cause to be endorsed on his licence the nature of the offence, the date of the conviction and the amount of the penalty inflicted.

Cancellation or suspension of licence on conviction.

30. (1) On the conviction of any driver for any offence under this Act the magistrate may direct the cancellation of the licence of such driver or its suspension for such time as he thinks fit.

Return of licence or badge on conviction.

(2) For such purpose he may require the driver or any other person who may be in possession of the licence or badge to deliver up the same.

Penalty.

(3) If such driver or other person refuses or neglects to deliver up the licence or badge, he shall be liable to a penalty not exceeding ten rupees.

Magistrate to communicate sentence and forward licence and badge to Commissioner.

(4) The magistrate shall forward every licence and every badge delivered up to him under sub-section (2) to the Commissioner together with a memorandum of his sentence in the case.

Action to be taken by Commissioner.

(5) The Commissioner shall enter the fact of such sentence in the register referred to in section 20, and shall either suspend or cancel such licence according to the direction of the magistrate; and if it has been suspended, the Commissioner shall on application, at the end of the period of suspension, re-deliver such licence or badge to the person to whom it was granted.

CHAPTER IV.

Fares, Hiring and Plying for Hire.

Maximum fares for use of hackney carriages.

31. (1) The owner or driver of every hackney carriage may demand and receive for the hire of such carriage such fares as may be fixed and published by the Commissioner with the sanction of the [1][State Government] duly notified:

Contract for lower fare to be binding. Back fares prohibited.

Provided that any agreement entered into to accept a fare lower than the fare so fixed shall be binding.

(2) No owner or driver shall demand or receive over and above the said fare any sum for back fare for the return of the carriage from the place at which it was discharged.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Contract for higher fare invalid.

32. No agreement made with the driver of any hackney carriage for the payment of more than the fare published in accordance with section 31 shall be binding on the person making the same, and any person, notwithstanding such agreement, may refuse on discharging such hackney carriage to pay any sum beyond such fare. If in pursuance of such agreement any person receives any sum exceeding the fare allowed, he shall be liable to pay a fine not exceeding ten rupees and also to refund such excess, which shall be recoverable as if it were a fine.

Penalty.

Publication of authorized fares and distances.

33. (1) The Commissioner shall cause to be prepared a list in English and Tamil or other vernacular language of the fares published under section 31 and shall annex to such list a table showing the distances between the principal places to and from which hackney carriages commonly ply. The distances so shown shall be presumed to be correct.

Copies of published scale to be available for sale.

(2) Copies of such list and table shall be issued to all applicants on payment of [1][a fee for each copy of four annas or of such other sum as the Commissioner subject to the control of the [2] (State) Government may prescribe].

Driver to keep copy of published scale and produce on demand.

(3) The driver of every hackney carriage standing or plying for hire shall have with him a copy of such list and table and shall on demand produce the same for the inspection of any police officer or for the information of any hirer of, or passenger by, his carriage under penalty on conviction by a magistrate of a fine not exceeding ten rupees.

Maximum distance to which driver is bound to drive.

34. (1) The driver of every hackney carriage standing or plying for hire shall drive such carriage to any place named by the hirer which is not more than three miles from the place of hiring in the case of vehicles of the description specified in clause (*f*) of section 9 and six miles in the case of any other vehicle.

Minimum speed when hired by time.

(2) When any such carriage is hired by time, the driver thereof shall drive the same at a rate of speed not less than that prescribed by the Commissioner.

Penalty.

(3) A driver failing, without reasonable excuse, to comply with the provisions of this section, shall be liable to a fine not exceeding ten rupees.

Quantity of luggage to be carried.

35. The driver of every hackney carriage shall carry in or upon such carriage without additional charge such quantity of luggage for every person hiring the same as may be prescribed by by-law under this Act.

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[1] These words were substituted for the words "a fee of two annas for each copy" by section 2 of the Madras Hackney Carriage (Amendment) Act, 1947 (Madras Act XVII of 1947).

[2] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

Penalty for refusing to let hackney carriage for hire.

36. Any owner or driver of any hackney carriage who demands more than the fare to which he is legally entitled, or without reasonable excuse refuses to let such carriage for hire shall be liable to a fine not exceeding fifty rupees and to pay such further sum by way of compensation to the party complaining as to the magistrate may seem just; and such further sum shall, in default of immediate payment, be levied as if it were a fine.

Penalties for various offences by driver.

37. Every driver of a hackney carriage, who—

(*a*) is drunk during his employment,

(*b*) makes use of insulting or abusive language or gesture,

(*c*) stands elsewhere than at some stand or other place appointed for the purpose or loiters for the purpose of being hired in or upon any public street, road or place,

(*d*) wilfully obstructs, or hinders, the driver of any hackney carriage in taking up or setting down any person into, or from, such other carriage,

(*e*) wrongfully prevents or endeavours to prevent the driver of any other hackney carriage from being hired,

(*f*) refuses to admit and carry in such carriage the number of passengers the carriage is licensed to carry,

(*g*) carries more than such number of passengers,

(*h*) refuses to carry such quantity of luggage as is provided by the by-laws under this Act,

(*i*) being hired, permits or suffers any person to be carried in or upon or about such hackney carriage during such hire, without the consent of the person hiring the same,

(*j*) drives in any hackney carriage any animal which is not so secured as to be under the control of the driver,

(*k*) being hired by time or distance, before he has been discharged by the hirer, wilfully deserts from the hiring,

(*l*) plies for hire with any carriage or animal which shall at the time be unfit for public use,

(*m*) without previously disinfecting it knowingly uses for hire any carriage used for the conveyance of a corpse or any person suffering from any contagious or infectious disease,

shall be liable to a fine not exceeding fifty rupees, or to imprisonment which may extend to one month, or to both.

Requisition to owner to produce absent driver.

38. (1) When a complaint is made before a magistrate against the driver of a hackney carriage under this Act, the magistrate may, if the driver fails to appear, summon the owner to appear and to produce the driver.

Penalty.

(2) If the owner after being duly summoned fails without reasonable excuse to appear or to produce the driver according to the summons, he shall be liable to a fine not exceeding fifty rupees.

(*Chapter IV—Fares, Hiring and Plying for Hire.*)

(3) If the owner fails without reasonable excuse to appear or produce such driver on a second or subsequent summons requiring him to do so, the magistrate may dispose of the complaint in the absence of the owner and driver or either of them. *Ex parte* disposal of complaint.

39. (1) In case of any dispute between the hirer and the driver of any hackney carriage, either may require the other to proceed forthwith to the nearest magistrate's court; and the then sitting magistrate shall hear and determine the dispute in a summary way. Procedure in case of dispute between hirer and driver.

(2) If no magistrate be then sitting, either party may require the other to proceed to the nearest police officer who shall enter the complaint in his diary and require the parties to appear before the magistrate at his next sitting.

(3) On failure of either party to appear before the magistrate in pursuance of a requisition under sub-section (1) or sub-section (2) or to attend the court at any subsequent sitting to which the case may be adjourned, the magistrate may decide the case *ex parte*, and his decision shall be binding on both parties.

40. (1) If any person who has hired a hackney carriage refuses to pay to the owner or driver thereof the fare payable under this Act, the magistrate may order payment of such fare, and also of reasonable compensation for loss of time and in default of immediate payment such fare and compensation may be recovered as a fine. Procedure in case of refusal to pay fare.

(2) If any person who has used any such carriage attempts to evade payment of the legal fare, or any portion thereof, he shall be liable to a fine not exceeding fifty rupees in addition to any payment which may have been ordered under sub-section (1). Penalty.

41. (1) Every person who wilfully tears, destroys, defaces, obliterates, or removes any plate, list of fares, table of distances, or driver's badge kept under the provisions of this Act, shall be liable to a fine not exceeding twenty rupees. penalty for defacing or destroying plate, badge or table of fares.

(2) Any portion of the fine may be awarded to the person to whom such plate, list of fares, table of distances, or driver's badge belongs.

42. Every person using a hackney carriage who wilfully injures the same shall be liable to a fine not exceeding Rs. 20, and shall also pay to the owner such compensation for the injury as the magistrate may direct; and such compensation shall be leviable as if it were a fine. Penalty for wilful injury to hackney carriage.

43. [*Repealed by Madras Act III of* 1924.]

(Chapter IV.—Fares, Hiring and Plying for Hire. Chapter V.—Lost Property.)

Hackney carriage stands.

44. (1) The Commissioner shall appoint a sufficient number of public stands for hackney carriages.

(2) Every public stand so appointed shall have a board placed in a conspicuous place on the same containing a notice in English and Tamil or other vernacular language stating that the stand is a public stand under this Act, and specifying the number of carriages that may stand upon it.

CHAPTER V.

Lost Property.

Deposit with police of property left in hackney carriages.

45. (1) The owner or driver of every hackney carriage wherein any property is left by any person shall, within eighteen hours, carry such property to the nearest police-station and deposit it with the inspector or other officer on duty, and shall be entitled to a receipt duly signed by the officer taking charge of the same.

Penalty.

(2) Any such owner or driver making default herein shall be liable to a fine not exceeding Rs. 20, or to imprisonment for a period which may extend to one month, or to both.

46. (1) The said officer shall forthwith enter, in a book to be kept for that purpose,—

(*a*) the description of the property ;

Police to register particulars of property deposited

(*b*) the name and address of the driver or other person who brings it ;

(*c*) the name and address of the owner of the hackney carriage in which it was left, and the registered number of the carriage ; and

and grant receipt;

(*d*) the day and hour when the property is brought ;

and shall give to the person bringing the property a receipt for the same.

Return of property to owner.

(2) Such property shall be delivered to the person who satisfies the Commissioner that it belongs to him upon payment of all expenses incurred by the owner or driver, together with such reasonable sum as the Commissioner may award :

Sale of unclaimed property.

Provided that if the property is not claimed and the ownership established within six months from the date of deposit, the Commissioner may cause the property to be advertised and sold by public auction ; and the proceeds, after deducting the expenses, together with such reasonable sum as the Commissioner may award to the owner or driver, may be forfeited to the Government.

(*Chapter V.—Lost Property. Chapter VI.—Prosecutions. Chapter VII.—By-Laws and Delegations.*)

CHAPTER VI.

PROSECUTIONS.

Ex parte disposal of criminal charges.

47. If in any prosecution under this Act the person charged does not appear as directed by the summons, the magistrate may, upon proof of service and if no sufficient cause be shown for the non-appearance, proceed to dispose of the case in his absence.

Limitation restricting criminal proceedings.

48. (1) No person shall be liable to prosecution for any offence under this Act unless the complaint respecting such offence be made within one month next after the commission of such offence.

Continuing offences.

(2) For the purposes of this section every omission punishable under this Act shall be deemed to be a continuing offence so long as the omission continues.

Compensation for frivolous prosecution.

49. Where the magistrate is satisfied that a complainant has no reasonable ground for instituting a prosecution, he may direct the complainant to pay to the accused such compensation not exceeding fifty rupees as he thinks fit; and the sum so awarded shall be recoverable as if it were a fine.

CHAPTER VII.

BY-LAWS AND DELEGATIONS.

Power to make by-laws.

50. The Commissioner may, subject to the approval of the [1][State Government] and after previous publication, make by-laws not inconsistent with the provisions of this Act with regard to—

(*a*) the examination and qualifications of drivers and the conditions under which they may be employed;

(*b*) the description of horses, bullocks or other animals, harness and other things to be used with hackney carriages, the dimensions of such carriages, and the condition in which such carriage and the horses, bullocks or other animals, harness and other things used therewith shall be kept;

(*c*) the inspection of the premises on which any such carriages, horses, bullocks or other animals, harness and other things are kept;

(*d*) the protection of weak, lame and sickly horses, bullocks or other animals;

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

(Chapter VII.—By-Laws and Delegations. Chapter VIII.—Extension of the Act.)

(*e*) the publication of a list of fares and table of distances and the regulation of the amount and weight of luggage to be carried with or without additional charge ; and

(*f*) generally for carrying out the purposes of this Act :

Provided that such by-laws shall not take effect until the expiration of one month from the date of their publication.

Penalty for breach of by-laws.

51. Whoever infringes any by-law shall, on conviction before a magistrate, be liable to a fine not exceeding twenty rupees.

Delegation of Commissioner's function in Madras.

52. Subject to the control of the [1][State Government] the Commissioner may delegate to any Deputy or Assistant Commissioner all or any of his functions under this Act in respect of the whole or any part of the City of Madras.

CHAPTER VIII.

Extension of the Act.

Discharge of Commissioner's functions in mufassal.

53. Upon the extension of this Act to any town or place under sub-section (3) of section 1 the [1][State Government] shall appoint persons by name or by official designation to perform the functions of the Commissioner under this Act.

MADRAS ACT No. I OF 1914.[2]

[The Madrar Hindu Transfers and Bequests Act, 1914.]

[24*th March*, 1914.]

An Act to declare the rights of Hindus to make transfers and bequests in favour of unborn persons.

Preamble.

Whereas it is expedient to declare the rights of persons governed by the Hindu law to make transfers and bequests in favour of unborn persons ; It is hereby enacted as follows :—

Short title

1. This Act may be called " The [3](Madras) Hindu Transfers and Bequests Act, 1914."

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[1]The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1913, Pt. IV, p. 691 ; for Report of Select Committe, *see ibid*, p. 943 ; and for Proceedings in Council, *see ibid*, p. 785.

[3] This word was inserted by section 3 (1) of and the second Scheduled to the Madras Repealing and Amending Act, 1951 (Madras Act XIV of 1951).

Application and exaent.

2. (1) This Act shall apply to all transfers *inter vivos* and wills made by persons governed by the Hindu law who are domiciled within the limits of the Presidency of Madras.

(2) In the case of transfers *inter vivos* or wills executed before the date of this Act the provisions of this Act shall apply to such of the dispositions thereby made as are intended to come into operation at a time which is subsequent to such date: Provided that nothing contained in this section shall affect *bona fide* transferees for valuable consideration in whom the right to any property has vested prior to the date of the Act.

Explanation.—Hindus governed by the Marumakkattayam or the Aliyasantana law shall be deemed to be persons governed by the Hindu law for the purposes of this Act.

Disposition for the benefit of person not in existence.

[1][**3.** Subject to the limitations and provisions specified in this Act, no disposition of property by a Hindu whether by transfer *inter vivos* or by will, shall be invalid by reason only that any person for whose benefit it may have been made was not born at the date of such disposition.

Limitations and conditions.

4. The limitations and provisions referred to in section 3 shall be the following, namely:—

(*a*) in respect of dispositions by transfers *inter vivos*, those contained in Chapter II of the Transfer of Property Act, 1882, and

Central Act of V 1882.

(*b*) in respect of dispositions by will, those contained in sections 113, 114, 115 and 116 of the Indian Succession Act, 1925.]

Central Act XXXIX of 1925.

[1]Sections 3 and 4 were substituted for the original sections 3, 4 and 5 by section 11 of the Transfer of Property (Amendment) Supplementary Act, 1929 (Central Act XXI of 1929).

MADRAS ACT II OF 1914[1].

[THE MADRAS LAND REVENUE ASSESSMENT (AMENDMENT) ACT, 1914.]

[12*th May* 1914.]

An Act to amend the Madras Land Revenue Assessment Act, 1876.

Preamble. WHEREAS it is expedient that persons other than District Collectors should be authorized to exercise the powers and perform the duties referred to in the Madras Land Revenue Assessment Act, 1876 ; It is hereby enacted as follows :— Madras Act I of 1876.

Short title. 1. This Act may be called "The Madras Land Revenue Assessment (Amendment) Act, 1914."

Definition of the term "Collector" 2. The words "Collector of the district" and "Collector." in the Madras Land Revenue Assessment Act, 1876, shall include any officer who may hereafter be empowered by the [2] [State Government] to exercise the functions of a District Collector in respect of alienated portions of any permanently settled estate and shall be deemed to have always included any officer who has heretofore exercised such functions. Madras Act I of 1876.

Right of suit regarding acts and orders hereby validated. 3. Notwithstanding anything in the Indian Limitation Act, 1908, any person aggrieved— Central Act IX of 1908.

(*a*) by the fact of the separate registration between the first day of January 1912 and the commencemet of this Act by an officer other than the Collector of the district of any portion of a permanently-settled estate, or

(*b*) by the refusal between the said dates by such officer to register any portion of a permanently-settled estate, may within 12 months after the commencement of this Act sue in a civil court for a decree that such registration ought not to be made or ought to be made, as the case may be.

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[1]For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1914, Pt. IV, p. 1 ; for Report of Select Committee, *see ibid*, p. 231 ; and for Proceedings in Council, *see ibid*, pp. 138 and 688

[2]The words "Provincial Government were" substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

MADRAS ACT No. III OF 1914[1].

[THE MADRAS PROPRIETARY ESTATES' VILLAGE-SERVICE (AMENDMENT) ACT, 1914.]

[12*th May* 1914.]

An Act to amend the Madras Proprietary Estates' Village-service Act, 1894.

Mad. Act II of 1894.

WHEREAS it is expedient to amend the Madras Proprietary Estates' Village-service Act, 1894; It is hereby enacted as follows :— Preamble.

1. This Act may be called the Madras Proprietary Estates' Village-service (Amendment) Act, 1914. Short title.

Mad. Act II of 1849.

2. In this Act, chapter, section, sub-section or clause means a chapter, section, sub-section or clause respectively of the Madras Proprietary Estates' Village-service Act, 1894. Interpretation clause.

[2][. . . . .].

8. Every enfranchisement purporting to have been made under section 17 between the 1st of April 1912 and the commencement of this Act shall be deemed to have been validly made. Validity of enfranchisements made between 1st April 1912 and the commencement of this Act.

[3][. . . .]

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[1]For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1914, Pt. IV, p. 3; for Report of Select Committee, *see ibid*, p. 5; and for Proceedings in Council, *see ibid*, pp. 83, 417.

[2]Sections 3 to 7 were repealed by the First Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

[3]Sections 9 to 14 were repealed by the First Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

MADRAS ACT No. IV OF 1914[1].

[THE MADRAS MEDICAL REGISTRATION ACT, 1914.]

[12*th May* 1914.]

An Act for the Registration of Medical Practitioners.

Preamble. WHEREAS it is expedient to provide for the registration of medical practitioners in the Presidency of Madras; It is hereby enacted as follows :—

Short title. **1.** (1) This Act may be called the Madras Medical Registration Act, 1914.

Extent. (2) It extends to the whole of the Presidency of Madras.

Commencement of Act. **2.** The provisions of section 4 shall come into [2] force on such date as the [3][State Government] may notify in this behalf. The rest of this Act shall come into force at once.

Definitions. **3.** In this Act unless there is something repugnant in the subject or context,—

(1) "the British Medical Act" means Statute 21 and 22 Victoria, Chapter 90 (The Medical Act), and any Act amending the same;

(2) "Council" means the Medical Council established by this Act;

(3) "hospitals," "asylums," "infirmaries," "dispensaries," "lying-in hospitals" mean institutions the methods of treatment carried on in which are those which are approved by the Medical Council established by this Act;

(4) "prescribed" means prescribed by rules or by-laws made under this Act;

(5) "registered practitioner" means any person registered under the provisions of this Act.

Privileges of registered practitioners. **4.** Notwithstanding anything to the contrary in any enactment, rule, by-law or any other provision of law—

(1) No certificate required by law to be given by a medical practitioner or officer shall be valid unless signed by a registered practitioner.

(2) Except with the special sanction of the [3][State Government] no one other than a registered practitioner shall be competent to hold any appointment as physician,

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[1]For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1913, Pt. IV, p. 699; for Report of Select Committee, *see ibid*, p. 931; and for Proceedings in Council, *see ibid*, pp. 370 and 786; *ibid*, 1914, Pt. IV., pp. 90, 112, 399 and 404.

[2]The provisions of section 4 came into force on 1st June 1916.

[3]The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

surgeon or other medical officer in any hospital, asylum, infirmary, dispensary or lying-in hospital not supported entirely by voluntary contributions or as Medical Officer of health.

Constitution of Medical Council.

[1][5. (1) A Medical Council shall be established for the [2][State] of Madras, consisting of the following fifteen members, namely :—

(*a*) one member elected by the [3][Senate] of the University of Madras from among the members of the Faculty of Medicine of that University ;

(*b*) one member elected by the [3][Senate] of the Andhra University from among the members of the Faculty of Medicine of that University ;

(*c*) one member elected from amongst themselves by such members of the staff of the Medical College at Madras, as are registered practitioners ;

(*d*) one member elected from amongst themselves by such members of the staff of the Medical College at Vizagapatam, as are registered practitioners ;

(*e*) one member elected from amongst themselves by such members of the staff of the Stanley Medical College, Madras, as are registered practitioners ;

(*f*) seven members elected by the registered practitioners from amongst themselves ; and

(*g*) three members nominated by the [2][State] Government.

(2) In making nominations under clause (*g*) of subsection (1) the [2][State] Government shall have due regard to the claims of women, of medical missions and of other groups of practitioners, representatives of whom have not been elected by the electorates referred to in clauses (*a*) to (*f*) of that subsection.

(3) The president of the Council shall be elected by the members of the Council from amongst themselves in the prescribed manner :

Madras Act XVI of 1938.

Provided that for a period of four years from the date of the reconstitution of the Council under the Madras Medical Registration (Amendment) Act, 1938, the president shall be a person nominated by the [2][State] Government and holding

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[1]This section was substituted for section 5 by section 2 of the Madras Medical Registration (Amendment) Act, 1938) (Madras Act XVI of 1938).

[2]This word was substituted for the word " Province " by the Adaptation Order of 1950.

[3]This word was substituted for the words " Academic Council " by section 2 of the Madras Medical Registration (Amendment) Act, 1943 (Madras Act IV of 1943). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948, Madras Act VII of 1948).

office during their pleasure, and where he is not already a member, shall *ex officio* be a member of the Council in addition to the members specified in sub-section (1).

(4) The vice-president shall be elected by the members of the Council from amongst themselves in the prescribed manner.]

Qualifications of members.

6. No person shall be eligible to be a member of the Council unless he is a registered practitioner.

[1][* * * * *]

Term of office of elected and nominated members.

[2][7. A member of the Council other than a nominated president who is a member *ex officio*, shall hold office for a term of five years from the date of his election or nomination and shall be eligible for re-election or re-nomination.]

Cessation of membership.

8. A member of the Council shall be deemed to have vacated his seat—

(1) on sending his resignation in writing to the president or registrar ;

(2) on his absence without excuse sufficient in the opinion of the Council from three consecutive meetings of the Council ;

(3) on his absence out of India for six consecutive months ;

(4) on removal of his name from the register ;

(5) on his being declared an insolvent by any competent court ;

(6) on expiry of the term mentioned in section 7 ; [3] [and]

[4][(7) in case he was elected under [5][clause (*a*) or clause (*b*)] of sub-section (1) of section 5, also on his ceasing to be a member of the Faculty of Medicine of the University concerned.]

[6][(8) in case he was elected under clause (*c*), clause (*d*) or clause (*e*) of sub-section (1) of section 5 and has ceased to be a member of the staff of the Medical College concerned, also on the the expiry of three months from the date of such cessation or on the election of his successor, whichever occurs earlier.]

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[1]The proviso was omitted by section 3 of the Madras Medical Registration (Amendment) Act, 1938 (Madras Act XVI of 1938).

[2]This section was substituted for section 7 by section 4, *ibid.*

[3]The word " and " which was added by section 3 of the Madras Medical Registration (Amendment) Act, 1935 (Madras Act XXI of 1935), was omitted by section 3 (i) of the Madras Medical Registration (Amendment) Act, 1943 (Madras Act IV of 1943). This was permanently re-enacted by section 2 of, and the First Shedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[4]This clause was added by section 3 of the Madras Medical Registration (Amendment) Act, 1395 (Madras Act XXI of 1935).

[5]This expression was substituted for the expression " clause (*b*) or clause (*bb*) " by section 5 of the Madras Medical Registration (Amendment) Act, 1938 (Madras Act XVI of 1938).

[6]This clause was added by section 3 (ii) of the Madras Medical Registration (Amendment) Act, 1943 (Madras Act IV of 1943). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

Filling up of vacancies.

9. When the seat of any member becomes vacant, the vacancy shall be filled up by election or nomination, as the case may be, in accordance with the provisions of section 5.

Executive Committee.

[1] [9-A. (1) There shall be an Executive Committee of the Council, consisting of its president and vice-president, *ex officio*, and three other members of the Council who shall be elected every year in the prescribed manner by the Council at its first meeting held in that year.

(2) (*a*) Every member of the Executive Committee so elected shall hold office as such until the next annual election; and if any casual vacancy occurs before such election, the Executive Committee shall fill that vacancy by electing a member of the Council:

Provided that if before the vacancy is so filled, a meeting of the Council has been called for, the vacancy shall be filled bythe Council by electing one of its members.

(*b*) A member of the Committee elected to fill a casual vacancy shall hold office as such only until the next annual election.

(3) The council may, with the previous sanction of the [2] [State] Government, delegate any of its powers and duties to the Executive Committee.

(4) The [2] [State] Government shall have power to cancel any delegation made under sub-section (3).

(5) No business shall be transacted at a meeting of the Executive Committee unless at least three members thereof are present.

All questions which may come before the Executive Committee shall be decided in accordance with the votes of the majority of the members present and voting at the meeting. In the case of an equality of votes, the president, vice-president or any councillor presiding at the meeting shall have a casting vote.]

Registrar and other officers.

10. (1) The Council shall apoint a registrar who shall act as secretary of the Council and who shall also act as treasurer, unless the council shall appoint another person as treasurer. Every person so appointed shall be removable at the pleasure of the Council.

(2) The Council may also employ such other persons as it may deem necessary for the purposes of this Act.

Central Act XLV of 1860.

(3) All persons appointed or employed under this section shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

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[1] This section was inserted by section 4 of the Madras Medical Registration (Amendment) Act, 1943 (Madras Act IV of 1943). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[2] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

Medical register.

11. It shall be the duty of the registrar to keep a register of medical practitioners and from time to time to revise the register and publish it in the prescribed manner. [1] [The names of the medical practitioners shall be arranged in the register in the alphabetical order, an asterisk being placed against the names of those who are entitled to vote at elections to the Medical Council of India under section 3 (1) (*c*) of the Indian Medical Council Act, 1933.] Such register shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872, and may be proved by a copy published in the [2] [Official Gazette.]

Central Act XXVII of 1933.

Central Act I of 1872.

Meetings of Council.

12. Except as otherwise provided in this Act, no business shall be transacted at a meeting of the Council unless at least seven members are present.

All questions which may come before the Council shall be decided in accordance with the votes of the majority of the members present and voting at the meeting. In the case of an equality of votes the member presiding at the meeting shall have a casting vote.

Persons who may be registered.

13. Subject to the provisions of section 14, every person who—

(*a*) is for the time being registered under the British Medical Act ; or

(*b*) is possessed of any of the qualifications described in the Schedule

shall be entitled to be registered on furnishing to the registrar proof of such registration or qualification whether or not such person practises or intends to practise the allopathic or any other system of medicine ;

Provided that the [3] [State Government] may, after consulting the Council permit the registration of any person who shall furnish to the registrar proof that he is possessed of a medical degree, diploma or certificate of any Universty, medical college or school approved by the Council, other than those described in the Schedule. [4] [Where such person is, at the time of his registration under this proviso, employed in a hospital, asylum, infirmary, dispensary or lying-in-hospital managed by a Mission, the [5][State] Government shall have power to direct that the registration shall be in force only so

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[1] This sentence was inserted by section 6 of the Madras Medical Registration (Amendment) Act, 1938 (Madras Act XVI of 1938).

[2] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

[3] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word "State" was substituted for " Provincial " by the Adaptation Order of 1950.

[4] This sentence was added by section 2 of the Madras Medical Registration (Amendment) Act, 1941 (Madras Act XXI of 1941). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[5] This word was substituted for the word " Provincial " by the Adaptation Order of 1950.

long as he continues to be employed in any such hospital, asylum, infirmary, dispensary or lying-in hospital :]

Provided further that the Council may refuse to permit the registration of any person who has been convicted of any such offence as implies in the opinion of the Council a defect of character or who, after an enquiry at which opportunity has been given to the candidate to be heard in person or by pleader, has been held by the Council to have been guilty of infamous conduct in any professional respect.

Registration fee.

[1] **[14.** (1)] Every person who applies to be registered under this Act shall pay a registration fee of [2] [twenty rupees].

[3] [Provided that any person whose name has been registered under any Act for the registration of medical practitioners for the time being in force in any other part of [4][ ] India shall be required to pay a registration fee of only five rupees if the Act aforesaid provides for the registration of persons registered under this Act without the payment of any fee or on payment of a fee not exceeding five rupees.]

[1] [(2)] Every registered practitioner who applies to the registrar for registration [5] [under a new name, or] in respect of any additional qualification obtained subsequent to registration under this Act shall pay a fee of five rupees.

[6] [(3) * * * *]

Appeal against the decision of registrar.

15. An appeal shall lie to the Council against any order of the registrar under section 13 or section 14. The said appeal shall be preferred within three months from the date of the order appealed against.

Alteration of register by Council.

16. (1) The Council may, if it sees fit and after giving due notice to the person concerned and inquiring into his objections, if any, order that any entry in the register which shall be proved to the satisfaction of the Council to have been fraudulently or incorrectly made or brought about be cancelled or amended.

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[1] The first paragraph of section 14 was renumbered as sub-section (1) and the second paragraph as sub-section (2) of secton 14 by section 2 of the Madras Medical Registration (Amendment) Act, 1929 (Madras Act X of 1929).

[2] These words were substituted for the words "fifteen rupees " by section 5(i) of the Madras Medical Registration (Amendment) Act, 1943 (Madras Act IV of 1943) re-enacted permanently by section 2 of and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[3] This proviso was added by section 5(ii), *ibid.*

[4] The word " British " was omitted by the Adaptation (Amendment) Order of 1950.

[5] These words were inserted bybsection 5 (iii) of the Madras Medical Registration (Amendment) Act, 1943 (Madras Act IV of 1943) re-enacted permanently by section 2 of and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[6] Sub-section (3) which was inserted by section 2 sf the Madras Medical Registration (Amendment) Act, 1929 (Madras Act of 1929), was omitted by section 5 (iv) of the Madras Medical Registration (Amendment) Act, 1943 (Madras Act IV of 1943) re-enacted permanently by section 2 of and the First Schedule to the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

(2) The Council may direct the removal altogether or for a specified period from the register of the name of any registered practitioner for the same reasons for which registration may be refused by the Council under section 13 and the second proviso thereto shall apply to any inquiry under this section. The Council may also direct that any name so removed shall be restored :

[1][Provided that no medical practitioner shall be removed from the register on the ground of his association in any professional respect, with a qualified practitioner of Indian Medicine such as Ayurvedic, Unani and Siddha or an unregiste red practitioner if such unregistered practitioner—

(*a*) is possessed of any of the qualifications described in the Schedule, and

(*b*) is not a person whose name the Council has refused toregister under the second proviso to section 13 or whose name the Council has removed from the register un der this sub-section.

Explanation.—The expression ' qualified practitioner ' shall, for the purposes of this proviso, mean ' a practitioner qualified under rules made by the [2][State Government] in this behalf.']

[3][(3) Nothing in sub-section (2) shall relieve a registered practitioner of any obligations or code of ethics which may be imposed upon registered practitioners generally by the Council.]

[3][(4) Any registered practitioner may make an application to the Council for the deletion of his name from the medical register, and the Council may, on such application and subject to such rules as may be made by the [2][State Government,] direct such deletion. Any such practitioner may apply for fresh registration under section 13.]

Procedure in inquiries and appeals.

17. (1) An inquiry under section 13 or section 16 may be held by a committee consisting of three members of the Council elected for the purpose by the Council. The Council or the committee, as the case may be, may at its discretion hold such inquiry *in camera*. [4][When the inquiry is held by a committee, it shall make a report to the Council which shall pass orders under section 13 or section 16, as the case may be.]

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[1] The proviso was added by section 2 of the Madras Medical Registration (Amendment) Act, 1932 (Madras Act IX of 1932).

[2] The words " Provincial Government " were substituted for the words " Local Government" by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[3] Sub-sections (3) and (4) were added by section 2 of the Madras Medical Registration (Amendment) Act, 1932 (Madras Act IX of 1932).

[4] This sentence was substituted for the sentence " The decision of the committee shall be deemed to be the decision of the Council"; by section 6 of the Madras Medical Registration (Amendment) Act, 1943 (Madras Act IV of 1943), re-enacted permanently by section 2 of and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

(2) For the purpose of any such inquiry or of any appeal under section 15, the Council or any committee thereof elected as aforesaid shall be deemed to be a court within the meaning of the Indian Evidence Act, 1872 ; and shall exercise all the powers of a Commissioner appointed under the Public Servants (Inquiries) Act, 1850 ; and such inquiries and appeals shall be conducted, as far as may be, in accordance with the provisions of section 5 and sections 8 to 20 of the said Public Servants (Inquiries) Act, 1850.

Central Act I of 1872.

Central Act XXXVII of 1850.

18. An appeal shall lie to the [1] [State Government] against every decision of the Council under section 13 or section 16. Such appeal shall be preferred within three months from the date of the Council's decision.

Appeal against the decision of Council.

19. No act done in the exercise of any power conferred [2] [by or under this Act] on the [1] [State Government] or the Council [2] [or the Executive Committee] or the registrar shall be questioned in any civil court.

Limiting of jurisdiction of civil courts.

20. It shall be lawful for the [1] [State Government] by notification in the [3] [Official Gazette] to alter the Schedule :

Power of State Government to alter schedule.

Provided that no medical degree, diploma or certificate granted in any British Colony or foreign country which does not recognize the medical degrees, diplomas or certificates of [4] [any Government or University in India] shall be included in the Schedule.

21. The Council shall have power to call on the governing body or authorities of any University, medical college or school included in or desirous of being included in the Schedule—

Power of Council to call for information regarding efficiency of teaching and examinations.

(*a*) to furnish such reports, returns or other information as the Council may require to enable it to judge of the efficiency of the instruction given therein in medicine and surgery and midwifery ; and

(*b*) to provide facilities to enable any member of the Council deputed by the Council in this behalf to be present at the examinations held by such University, college or school.

If the said body or authorities refuse to comply with any such demand, the [1] [State Government] may upon report by the Council remove such University, college or school from the Schedule or refuse to include it in the Schedule.

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[1] The words " Provincial Government " were substituted for the words " Governor in Council" by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] The words " by or under this Act " were substituted for the words " by this Act " and the words " or the Executive Committee " were inserted by section 7 of the Madras Medical Registration (Amendment) Act, 1943 (Madras Act IV of 1943). This was permanently re-enacted by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[3] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

[4] These words were substituted for the words " a British Indian Government or University " by the Adaptation (Amendment) Order of 1950.

Control by State Government.

22. If at any time it shall appear to the [1] [State Government] that the Council has neglected to exercise or has exceeded or abused any power conferred upon it under this Act or has neglected to perform any duty imposed upon it by this Act, the [1] [State Government] may notify the particulars of such neglect, excess or abuse to the council; and, if the Council fails to remedy such neglect, excess or abuse within such time as may be fixed by the [1] [State Government] in this behalf, the [1] [State Government] may, for the purpose of remedying such neglect, excess or abuse, cause any of the powers and duties of the Council to be exercised and performed by such agency and for such period as the [1] [State Government] may think fit.

Penalty for falsely pretending to be a registered practitioner.

23. Every person who falsely pretends to be a registered practitioner shall, whether any person is actually deceived by such pretence or not, be liable to be punished on conviction by a Presidency Magistrate or a magistrate of the first class with fine that may extend to three hundred rupees.

Power to make rules and by laws.

24. (1) The [1] [State Government] may after previous publication make rules for the purpose of carrying out the provisions of this Act.

In particular and without prejudice to the generality of the foregoing provision, the [1] [State Government] may make rules,—

(i) for the election of members to the Council under [2] [section 5];

(ii) for the [3] [election and term of office of the president and vice-president] of the Council;

[4] [(ii-a) for the election of the members of the Executive Committee];

(iii) to regulate the procedure at an inquiry held under section 13 or section 16;

(iv) for the institution, hearing and disposal of appeals under section 15 or section 18;

(v) for the compilation and publication of the register;

(vi) for the disposal of fees received under this Act.

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] This expression was substituted for the expression " sections 5 and 6 ", by section 7 (*a*) of the Madras Medical Registration (Amendment) Act, 1938 (Madras Act XVI of 1938).

[3] These words were substituted for the words " election of the vice-president ", by section 7 (*b*), *ibid.*

[4] This clause was inserted by section 8 (i) of the Madras Medical Registration (Amendment) Act, 1943 (Madras Act IV of 1943) re-enacted permanently by section 2 of, and the First Schedule to, the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

(2) The Council may, with the previous sanction of the [1] [State Government] make by-laws,—

(i) for the convening of meetings of the Council [2] [and of the Executive Committee] ;

(ii) for the conduct of business at such meetings ;

(iii) for the appointment, control, pay and allowances of the establishment employed under section 10.

[3] [25. * * *].

THE SCHEDULE.

[4] [(1) The degree of Doctor, Bachelor and Licentiate of Medicine and Master, Bachelor and Licentiate of Surgery of the University of Madras, the Andhra University, the Oosmania University and the Universities of Allahabad, Bombay, Calcutta, Lahore, Lucknow, Mysore and Rangoon.]

(2) A diploma orcertificate granted by [5][any Government in India] [6] [the Government of Burma] or the Government of Ceylon to any person trained in a medical college or school declaring him to be qualified to practise medicine, surgery and midwifery.

[7] [(3) The diploma of Fellow and Member and the Licentiate certificate granted by the State Medical Faculty of Bengal and the College of Physicians and Surgeons of Bombay.]

[8] [(4) A diploma granted by [9] [the Government of Hyderabad] to any person trained in the Hyderabad Medical School declaring him to be qualified to practise medicine, surgery and midwifery.]

[10] [(5) The diploma of Licensed Medical Practitioner granted by His Highness the Maharaja of Mysore's Medical School.]

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1 The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

2 These words were added by section 8 (ii), *ibid.*

3 Section 25 which was inserted by the Adaptation Order of 1937, was omitted by the Adaptation (Amendment) Order of 1950.

4 Clause (1) was substituted by Notification No. 1451, published at page 529 of Part I-A of the *Fort St. George Gazette*, dated 20th November 1934.

5 These words were substituted for the words " a British Indian Government" by the Adaptation (Amendment) Order of 1950.

6 These words were inserted by the Adaptation Order of 1937.

7 Clause (3) was added by Notification No. 26, published at page 725 of Part I-A of the *Fort St. George Gazette*, dated 19th December 1916.

8 Clause (4) was added by Notification No. 27, published at page 228 of Part I-A of the *Fort St. George Gazette*, dated 26th March 1918.

9 These words were substituted for the words " His Exalted Highness the Nizam's Government " by the Adaptation (Amendment) Order of 1950.

10 Clause (5) was added by Notification No. 15, published at page 9 of Part I of the *Fort St. George Gazette*, dated 6th January 1925.

MADRAS ACT No. VII OF 1914 [1]

[THE MADRAS DEPUTY COLLECTORS ACT, 1914.]

[12*th January* 1915.]

An Act to amend the Madras Uncovenanted Officers Act, 1857.

Preamble. WHEREAS it is necessary to define more clearly the powers of Deputy Collectors appointed under the Madras Uncovenanted Officers Act, 1857 ; It is hereby enacted as follows :— Central Act VII of 1857.

Short title. 1. (1) This Act may be called the Madras Deputy Collectors Act, 1914.

Extent. (2) It extends to the whole of the Presidency of Madras.

Repeal. 2. Section 3 of the Madras Uncovenanted Officers Act, 1857, is hereby repealed. Central Act VII of 1857.

[2][3. * * * *]

Deputy Collectors to have all the powers of Subordinate and Assistant Collectors. 4. The expressions " Subordinate Collector " and "Assistant Collector " in section 3 of Madras Regulation VII of 1828 shall include and be deemed always to have included a Deputy Collector appointed under the Madras Uncovenanted Officers Act, 1857. Central Act VII of 1857.

MADRAS ACT No. VIII OF 1914. [3]

[THE MADRAS DECENTRALIZATION ACT, 1914.]

[26*th January* 1915.]

An Act to facilitate the administration of certain enactments.

Preamble. WHEREAS it is expedient to facilitate the administration of certain enactments ; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Madras Decentralization Act, 1914.

Amendment of certain enactments. 2. The enactments specified in the third column of the Schedule are hereby amended to the extent and in the manner specified in the fourth column thereof.

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[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1914, Part IV, page 949 ; and for Proceedings in Council, *see ibid*, pages 1047 and 1165.

[2] This section was omitted by the Adaptation Order of 1937.

[3] For Statement of Objects and Reasons, *see Fort St. George Gazette*, 1914, Part IV, page 509 ; and for Proceedings in Council, *see ibid*, pp. 807, 1042.

3. Any appointment, notification, order, scheme, rule, form or by-law made or issued by an authority for the making or issuing of which a new authority is substituted by or under this Act shall, unless inconsistent with this Act, be deemed to have been made or issued by such new authority unless and until superseded by an appointment, notification, order, scheme, rule, form or by-law made or issued by such new authority. Saving of orders, etc., issued by previous authorities.

THE SCHEDULE.

Year.	Number.	Short title.	Amendments.
[1] [*	*	*	* * *]
[2] [*	*	*	* * *]
[3] [*	*	*	* * *]
1885	III	The Madras Outports Landing and Shipping Fees Act, 1885.	*Omit* the proviso at the end of section 4.
1889	IV	The Madras Salt Act, 1889.	[Not printed as the enactment has been repealed by the Central Excises and Salt Act, 1944 (Central Act I of 1944).]

MADRAS ACT No. V OF 1916.[4]

[THE MADRAS CITY CIVIL COURT AND PRESIDENCY SMALL CAUSE COURTS (AMENDMENT) ACT, 1916.]

[23*rd January* 1917.]

An Act to amend the Presidency Small Cause Courts Act, 1882, and the Madras City Civil Court Act, 1892.

Central Act VII of 1892. Central Act XV of 1882.

WHEREAS it is expedient to amend the Madras City Civil Court Act, 1892, and as to the Presidency of Madras the Presidency Small Cause Courts Act, 1882, in certain particulars Preamble.

[1] So much of the schedule as has not been repealed with the exception of the entries in the Schedule relating to Madras Acts III of 1885 and IV of 1889 was repealed by the First Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of 1938).

[2] The entry relating to the Madras District Municipalities Act, 1884, was repealed by section 2 of the Madras District Municipalities Act, 1920 (Madras Act V of 1920).

[3] The entry relating to the Madras Local Boards Act, 1884, was repealed by section 2 of the Madras Local Boards Act, 1920 (Madras Act XIV of 1920).

[4] For Statement of Objects and Reasons *see Fort St. George Gazette*, dated 30th May 1916, p. 929. For Proceedings in Council, *see ibid*, dated 12th September 1916, pp. 939–945, and *ibid*, dated 9th January 1917, p. 129.

and whereas the previous sanction of the Governor-General required by section 79, sub-section (2), of the Government of India Act, 1915, has been obtained so to amend the said Acts ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras City Civil Court and Presidency Small Cause Courts (Amendment) Act, 1916.

Institution in the Madras City Civil Court of certain suits cognizable by the Madras Small Cause Court.

2. Notwithstanding anything contained in the Presidency Small Cause Courts Act, 1882, and the Madras City Civil Court Act, 1892, all suits cognizable by the Court of Small Causes of Madras whereof the amount or value of the subject matter exceeds one thousand rupees may at the election of the plaintiff be instituted in the Madras City Civil Court which shall have jurisdiction to try and dispose of such suits according to the provisions of the Madras City Civil Court Act, 1892. Central Act XV of 1882. Central Act VII of 1892. Central Act VII of 1892.

Removal of suits instituted in the Madras Presidency Small Cause Court to the High Court or to the Madras City Civil Court.

3. (1) Notwithstanding anything contained in the Presidency Small Cause Courts Act, 1882, and the Madras City Civil Court Act, 1892, where an application is made to the High Court of Judicature at Madras under section 39 (1) of the Presidency Small Cause Courts Act, 1882, in any suit referred to therein, the High Court may either remove the suit to its own file or transfer the same to the Madras City Civil Court. Central Act XV of 1882. Central Act VII of 1892. Central Act XV of 1882.

(2) Where a suit is ordered to be transferred as aforesaid to the Madras City Civil Court, the provisions of sub-sections (2), (3) and (4) of section 39 and of section 40 of the Presidency Small Cause Courts Act, 1882, shall, *mutatis mutandis* and subject to the pecuniary limits of the jurisdiction of the Madras City Civil Court, apply. Central Act XV of 1882.

[MADRAS ACT No. I OF 1917.][1]

[THE AGENCY TRACTS INTEREST AND LAND TRANSFER ACT, 1917.]

[14*th August* 1917.]

An Act to regulate the rate of interest and the transfer of land in the Ganjam, Vizagapatam and Godavari Agency Tracts.

Preamble.

WHEREAS it is expedient to limit the rate of interest and to check transfers of land in the Agency tracts of the Ganjam,

[1] For Statement of Objects and Reasons, *see Fort St. George Gazette*, dated 10th October 1916, p. 953. For Select Committee's report *see ibid*, dated 27th February 1917, pp. 319–322. For the Bill as amended by the Select Committee, *see ibid*, of the same date, pp. 323–324. For Proceedings in Council, *see ibid*, dated 9th January 1917, pp. 130–140, and *ibid*, dated 10th July 1917, pp. 1099–1124.

Vizagapatam and Godavari districts; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Agency Tracts Interest and Land Transfer Act, 1917.

Definitions. **2.** In this Act unless there is anything repugnant in the subject or context—

(*a*) " Agency tracts " means the scheduled districts as defined in Acts XIV and XV of 1874 and included within the districts of Ganjam, Vizagapatam and Godavari.

(*b*) " Agent " means " Agent to the Governor " in the districts of Ganjam and Vizagapatam and " Government Agent " in the district of Godavari.

Madras Act I of 1908. (*c*) " hill tribe " means any body or class of persons resident in the Agency tracts (not being a landholder as defined in the Madras Estates Land Act, 1908) that may from time to time be notified as such for the purposes of the Act by the [1] [State Government].

(*d*) " immovable property " does not include standing timber, growing crops or grass.

(*e*) " prescribed " means prescribed by rules made under this Act.

(*f*) " transfer " means mortgage with or without possession, lease, sale, gift, exchange or any other dealing with property not being a testamentary disposition and includes a charge or any contract relating to immovable property.

Maximum interest that may be allowed as against a member of hill tribe. **3.** In any suit instituted after the commencement of this Act, notwithstanding any agreement to the contrary,

(*a*) Interest on any debt or liability shall not as against a member of a hill tribe be allowed or decreed at a higher rate than twenty-four per centum per annum nor shall any compound interest or any collateral advantage be allowed as against him ;

(*b*) The total interest allowed or decreed on any debt or liability as against a member of a hill tribe shall not exceed the principal amount.

Transfer of immovable property by a member of a hill tribe. **4.** (1) Notwithstanding any rule of law or enactment to the contrary, any transfer of immovable property situated within the Agency tracts by a member of a hill tribe shall be absolutely null and void unless made in favour of another member of a hill tribe, or with the previous consent in writing of the Agent or of any other prescribed officer.

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

(2) Where a transfer of property is made in contravention of sub-section (1), the Agent or any other prescribed officer may, on application by anyone interested, decree ejectment against any person in possession of the property claiming under the transfer and may restore it to the transferor or his heirs.

(3) Subject to such conditions as may be prescribed, an appeal against a decree or order under sub-section (2) if made by the Agent shall lie to the [1] [State Government] and if made by any other officer shall lie to the Assistant Agent or to the Agent as may be prescribed.

Suits against a member of a hill tribe to be instituted in the Agency courts.

5. Notwithstanding the provisions of any law to the contrary, every suit against a member of a hill tribe instituted after the commencement of this Act shall be instituted only in the Courts of the Agency tracts.

Attachment of immovable property.

6. In execution of a money-decree against a member of a hill tribe, no immovable property owned by him within the Agency tracts shall be liable to be attached and sold except as and if prescribed.

Framing of rules.

7. (1) The [1][State Government] may from time to time make rules to carry out the purposes of the Act.

(2) All rules made under this section shall be published in the [2][Official Gazette] and, on such publication, shall have the same effect as if enacted in this Act.

Savings.

8. (1) This Act shall not affect transfers made or debts or liabilities incurred before the coming into force of this Act.

(2) Nothing in this Act shall affect a landholder's right to proceed against the ryot in accordance with the provisions of the Madras Estates Land Act, 1908, or the first charge declared by section 5 of that Act, or the provisions of the said Act regarding relinquishment of a holding by a ryot. Madras Act I of 1908.

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[1] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] These words were substituted for the words " *Fort St. George Gazette*" by the Adaptation Order of 1937.

MADRAS ACT No. I OF 1918.[1]

[THE MAPPILLA SUCCESSION ACT, 1918.]

[11*th June* 1918.]

An Act to amend and define the law of intestate succession among Mappillas governed by the Marumakkattayam or the Aliyasantana Law of Inheritance.

Preamble. WHEREAS it is expedient to amend and define the rules of law applicable to intestate succession among Mappillas governed by the Marumakkattayam or the Aliyasantana Law of Inheritance ; It is enacted as follows :—

Short title. **1.** (1) This Act may be called the Mappilla Succession Act, 1918.

Local extent. (2) It extends to the whole of the Presidency of Madras.

Persons to whom this Act is applicable. (3) It applies to Mappillas domiciled in the Presidency of Madras who are governed by the Marumakkattayam or the Aliyasantana Law of Inheritance, and also, in respect of immovable property situated within the Madras Presidency, to Mappillas domiciled outside the said Presidency who are so governed.

Property in respect to which a deceased Mappilla is considered to have died intestate. **2.** A person is considered to die intestate in respect of all property of which he has not made a testamentary disposition capable of taking effect.

Explanation.—" Property " in this section does not include tarwad property unless the person dying intestate was exclusively entitled to it.

Devolution of such property. **3.** Such property shall, notwithstanding any custom to the contrary, devolve upon his heirs in the order and according to the rules of Muhammadan Law.

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[1] For Statement of Objects and Reasons *see Fort St. George Gazette*, dated 21st March 1916, pp. 497–498, which was withdrawn ; *see* p. 379 of *ibid*, dated 27th February 1917, and *ibid*, dated 10th April 1917, p. 526 for the Bill as amended. For Proceedings in Council, *see ibid*, dated 26th March 1918, pp. 119–120, and *ibid*, dated 11th June 1918, pp. 433–434.

MADRAS ACT No. II OF 1918.[1]

[THE DODDAPPANAYAKKANUR AND VUYYURU IMPARTIBLE ESTATES ACT, 1918.]

[29*th October* 1918.]

An Act to declare the Doddappanayakkanur and Vuyyuru estates to be impartible estates within the meaning of the Madras Impartible Estates Act, 1904[2] (Madras Act II of 1904).

Preamble. WHEREAS it is expedient to declare that the Doddappanayakkanur and Vuyyuru estates are impartible and that their proprietors cannot exercise unrestricted powers of alienation in respect thereof; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Doddappanayakkanur and Vuyyuru Impartible Estates Act, 1918.

Doddappanayakkanur and Vuyyuru estates to be impartible estates within the meaning of the Madras Impartible Estates Act, 1904.

2. Notwithstanding any decision of courts, rule of law, or enactment to the contrary, the Doddappanayakkanur estate in the Madura district and the Vuyyuru estate in the Kistna district (including as appurtenant thereto the moiety of the Meduru estate now owned by the Vuyyuru proprietor) are hereby declared to be impartible estates within the meaning of the Madras Impartible Estates Act, 1904,[2] and shall in the hands of their respective present owners as well as of their heirs and successors be subject to the provisions of that Act. Madras Act II of 1904.

Savings. 3. This Act shall not affect any alienation made or debt incurred before the commencement of this Act.

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[1] For Statement of Objects and Reasons *see Fort St. George Gazette*, dated 16th July 1918, p. 576. For Proceedings in Council, *see ibid*, dated 8th October 1918, pp. 744–751.

[2] This Act will cease to be in force in the estates notified under the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI, of 1948), by virtue of section 66 of that Act.

THE MADRAS PREVENTION OF ADULTERATION ACT, 1918.

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MADRAS ACT No. III OF 1918[1].

[THE MADRAS PREVENTION OF ADULTERATION ACT, 1918.]

[29*th October* 1918.]

Preamble. WHEREAS it is expedient, in the interests of the public health, to prevent the adulteration of food; It is hereby enacted as follows :—

Short title and extent. 1. (1) This Act may be called the Madras Prevention of Adulteration Act, 1918.

(2) This section extends to the whole of the Madras Presidency; the rest of the Act shall extend only to such local areas as the [2] [State Government] may by notification in the [3] [Official Gazette] direct, and in respect either of all food or such as the [2] [State Government] may specify in the notification; and, if the [2] [State Government] so direct, only for the duration of any market, fair or festival or other large assembly of people :

Provided that such notification shall be made only after the local authority or authorities concerned have had an opportunity of expressing an opinion as to the necessity for such extension.

Interpretation clause. 2. In this Act unless there is something repugnant in the subject or context—

"food" includes every article (other than drugs or water) used by man for food or drink, and all material used or admixed in the composition or preparation of such article and shall also include flavouring matter and condiments;

[4] ["milk" means the normal clean secretion drawn from the udder of a healthy cow or buffalo either completely, or, after the first portion of such secretion has been drawn off, to completion;]

[4] ["cream" means that portion of milk rich in milk-fat which has risen to the surface of milk on standing and has been removed or which has been separated from milk by centrifugal force;]

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[1] For Bill and Statement of Objects and Reasons, *see Fort St. George Gazette*, Part IV, dated 12th March 1918, pp. 7–17; for Proceedings in Council, *see ibid*, dated 3rd April 1918 and 13th August 1918, pp. 421–424 and 731–744.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] These words were substituted for the words "*Fort St. George Gazette*" by the Adaptation Order of 1937.

[4] This definition was inserted by section 2 of the Madras Prevention of Adulteration (Amendment) Act, 1927 (Madras Act II of 1928).

"butter" and "cheese" mean respectively butter and cheese made exclusively from milk or cream or both with or without the addition of salt or other innocuous preservative, or of innocuous colouring matter;

"ghee" means ghee prepared exclusively from butter made from cow's or buffalo's milk or cream or both;

"prescribed" means prescribed by rules made under this Act;

"public analyst" means any person appointed by or with the approval of the [1][State Government] to exercise the powers of a public analyst under this Act;

[2]["Government analyst" means any person appointed by the [1][State Government] to exercise the powers of a Government Analyst under this Act;]

[3]["local executive officer" means—

(i) in the City of Madras, the Commissioner of the Corporation of Madras;

(ii) in the area of any other municipality, the executive authority of the municipality, or if the municipal council is superseded or dissolved and the municipality has not been included in Schedule IX to the Madras District Municipalities Act, 1920, or notified under section 12-C of that Act, any person appointed by the [1][State Government] to exercise and perform the functions of the executive authority under clause (*b*) of sub-section (3) of section 41 of that Act, or such public servant as may be designated by the [1][State Government] to exercise the functions of a local executive officer under this Act, as the case may be; and

Madras Act V of 1920.

(iii) in or for other local areas—

(*a*) the president of the panchayat, or if the panchayat is dissolved or superseded, any person appointed by the [1][State Government] to exercise the powers and discharge the duties of the president of the panchayat under sub-section (3) of section 45 of the Madras Local Boards Act, 1920[4], or under sub-section (5) of section 45-A of that Act, as the case may be;

Madras Act XIV of 1920.

(*b*) if there is no panchayat, the president of the district board, or if the district board is dissolved, any person appointed by the [1][State Government] to exercise the powers and discharge the duties of the president of the district board under sub-section (3) of section 45 of the Madras Local Boards Act, 1920[4]; and

Madras Act XIV of 1920.

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] This definition was inserted by section 2 (i) of the Madras Prevention of Adulteration (Amendment) Act, 1935 (Madras Act XIX of 1935).

[3] This definition was substituted for the original by section 2 (ii), *ibid.*

[4] Now the Madras District Boards Act, 1920 (Madras Act XIV of 1920).

(c) if there is neither a panchayat nor a district board, such public servant as may be designated by the [1] [State Government] to exercise the functions of a local executive officer under this Act ; and

includes any person appointed under section 16-A]

Delegation of powers of local executive officers.

3. (1) The local executive officer may delegate his powers and duties under this Act to such persons and in such manner as may be prescribed.

(2) Every person to whom powers have been delegated under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Central Act XLV of 1860.

Appointment of analyst.

4. [2][(1) The local authority having control over any local area to which the [1][State Government] have extended the provisions of this Act, may appoint one or more persons to be public analyst or public analysts for such area and may remove any person so appointed.

(2) Every such appointment and removal shall be subject to the previous approval of the [1] [State Government] who may give their approval absolutely or with such conditions as to the period of the appointment, removal, or otherwise as they may think fit.

(3) Where no public analyst has been appointed for any local area under sub-sections (1) and (2), or where no local authority has been consitituted for any local area to which the [1] [State Government] have extended the provisions of this Act, the [1] [State Government] may appoint one or more persons to be public analyst or public analysts for such local area and may require the local authority or authorities, if any, constituted for such area to defray, in whole or in part and in such proportions as the [1][State Government] may determine, the expenses of, and connected with, the appointment of such analyst or analysts and the carrying out of the provisions of this Act].

[3][(4)] For the enforcement of a requisition made under [4] [sub-section (3)] the [1] [State Government] shall have all such powers of control over every local authority as are given to them in respect of any similar matter by the Act under which such local authority is established.

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[2] Sub-sections (1), (2) and (3) were substituted for the original sub-sections (1) and (2) by section (3) (i) of the Madras Prevention of Adulteration (Amendment) Act, 1935 (Madras Act XIX of 1935).

[3] The original sub-section (3) was renumbered as sub-section (4) by *ibid.*

[4] The word, figure and brackets were substituted for the word, figure and brackets " sub-section (2) " by section 3 (ii), *ibid.*

5. (1) Every person who— Offences and exceptions.

(*a*) sells any food which is not of the nature, substance or quality of the article demanded by the purchaser ; or

(*b*) [1] [manufactures, stores or offers for sale] or hawks about or sells any food which is not of the nature, substance or quality which it purports, or is represented to be ; or

(*c*) abstracts from any food any part of it so as to affect injuriously the nature, substance or quality thereof with intent that it should be sold in its altered state without notice of the alteration, or sells any article so altered without making disclosure of the alteration ; or

[2] [(*d*) offers for sale or hawks about or sells milk, cream, butter, ghee, cheese or any food which is not up to the standard of purity prescribed by the [3] [State Government] ; shall be punished for the first offence with fine which may extend to one hundred rupees and for every subsequent offence with fine which may extend to five hundred rupees :

Provided that in the following cases no offence under this section shall be deemed to have been committed :—

(i) where any innocuous material has been used or admixed in the composition or preparation of the food to render the same fit for carriage or consumption and not fraudulently to increase the bulk, weight or measure of the food or to conceal or debase the quality thereof ; or

(ii) where in the process of production, collection, preparation or conveyance of the food some extraneous material has unavoidably been admixed therewith ; or

(iii) where any innocuous material has been added or admixed or the article of food sold is not up to the standard of purity prescribed by the [3] [State Government], and before the sale the vendor has clearly [4] [brought the fact to the notice of the purchaser in such manner as the [3] (State Government) may by rule made under section 20 prescribe, or in the absence of any such rule by mean of a label on or with the food] ; or

(iv) where the food is the subject of a patent in force and is supplied in the state required by the specification thereof.

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[1] These words were substituted for the words " manufactures for sale or offers for sale " by section 3 (*a*) (i) of the Madras Prevention of Adulteration (Amendment) Act, 1927 (Madras Act II of 1928).

[2] Clause (*d*) was substituted for the original clause by section 3 (*a*) (ii), *ibid.*

[3] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] These words were substituted for the words " brought the fact to the notice of the purchaser either by means of a label on or with the food or in such other manner as the Local Government may, by rule framed under section 20 of this Act, prescribe " by section 4 of the Madras Prevention of Adulteration (Amendment) Act, 1935 (Madras Act XIX of 1935).

(2) In every prosecution for an offence against this section, the court may presume that any food found in the possession of a person [1] [who is in the habit of manufacturing or storing like articles for sale, has been manufactured or stored by such person for sale].

Presumptions to be made and pleas to be disallowed or allowed.

6. [2] [(1) Save as otherwise provided in sub-section (2), it shall be no defence to a prosecution for an offence under section 5, to allege merely that the vendor was ignorant of the nature, substance or quality of the food sold by him or that the purchaser having bought only for analysis was not prejudiced by the sale.

(2) (*a*) A vendor shall not be deemed to have committed an offence under section 5, if he proves—

(i) that the food was purchased by him as the same in nature, substance and quality as that demanded by the purchaser and with a written warranty in the prescribed form, if any, to the effect that it was of such nature, substance and quality;

(ii) that he had no reason to believe at the time when he sold the same that the food was not of such nature, substance or quality; and

(iii) that he sold it in the same state as that in which he purchased it:

Provided that such defence shall be open to the vendor only if he has, within seven days of the service on him of the summons, sent to the local executive officer a copy of the warranty with a written notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it and has also sent a like notice of his intention to that person:

Provided further that a warranty given by a person resident in any area in which this Act is not in force shall be a defence to the vendor only if the vendor proves to the satisfaction of the Court that he had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained in the warranty.

(*b*) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence.]

[3] [(3)] Where an employer is charged with an offence under this Act, he shall be entitled on application duly made by him to have any other person whom he charges as the actual

[1] These words were substituted for the words "who is in the habit of manufacturing like articles of food, has been manufactured for sale" by section 3 (*b*) of the Madras Prevention of Adulteration (Amendment) Act, 1927 (Madras Act II of 1928).

[2] Sub-sections (1) and (2) were substituted for the original sub-section (1) by section 5 of the Madras Prevention of Adulteration (Amendment) Act, 1935 (Madras Act XIX of 1935).

[3] The original sub-section (2) was renumbered as sub-section (3) by section 5 of the Madras Prevention of Adulteration (Amendment) Act, 1935 (Madras Act XIX of 1935).

offender brought before the court at the time appointed for the hearing, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he used due diligence to enforce the execution of this Act and that the said other person committed the offence without his knowledge, consent or connivance, the said other person shall be convicted and the employer shall be acquitted.

[1][6-A. (1) Every person—

(*a*) who, in any proceedings under this Act, wilfully applies to an article of food a warranty given in relation to any other article of food, or False warranties and descriptions.

(*b*) who wilfully gives label with any article of food sold by him which falsely describes the articles sold,

shall be punished for the first offence with fine which may extend to one hundred rupees and for every subsequent offence with fine which may extend to five hundred rupees.

(2) Every person who, in respect of an article of food sold by him whether as principal or as agent, gives to the purchaser a false warranty in writing shall, unless he proves to the satisfaction of the Court that when he gave the warranty he had reason to believe that the statements or descriptions contained therein were true, be punished for the first offence with fine which may extend to one hundred rupees and for every subsequent offence with fine which may extend to five hundred rupees.]

7. (1) The local executive officer may, without notice, enter any place where articles of food are being manufactured or exposed for sale at any time by day or night when the exposure for sale or manufacture is being carried on and inspect the same and any utensil or vessel used for manufacturing, preparing or containing any such article. Powers of local executive officers for purposes of inspection.

[2][(2) * * * * *]

(3) In any legal proceedings in respect of powers exercised under this section in which it is alleged that any food was not kept, exposed, hawked about, manufactured, prepared, stored, packed, or cleansed for sale, or was not intended for human food, the burden of proof shall lie on the party so alleging.

8. Every person who shall, in any manner whatsoever, prevent the local executive officer or person duly authorized by him exercising his powers under the last preceding section, shall be punished, where his act does not amount to an offence, under the Indian Penal Code, with a fine which may extend to fifty rupees. Penalty for preventing inspection.

Central Act XLV of 1860.

[1] This section was inserted by section 6 of the Madras Prevention of Adulteration (Amendment) Act, 1935 (Madras Act XIX of 1935).

[2] This sub-section was omitted by section 7, *ibid.*

Power of local executive officer to seize adulterated food, etc.

9. If any article intended for food appears to the local executive officer to be adulterated or other than what it purports or is represented to be, or if any vessel or utensil used in manufacturing, preparing or containing such article appears to violate any rule made under section 20, he may seize or carry away or secure such article, utensil or vessel in order that the same may be dealt with as hereinafter provided.

Penalty for removing or interfering with articles seized.

10. Every person who shall remove or in any way interfere with an article secured under the last preceding section shall be punished with fine which may extend to five hundred rupees.

Sample of articles seized to be sent to the public analyst.

11. When any article of food seized under section 9 appears to the local executive officer to be adulterated or other than what it purports or is represented to be, he shall forthwith send a sample of such article to [1][a public analyst appointed for the local area concerned].

Production of articles, etc., seized before magistrate and powers of magistrate to deal with them.

12. (1) Articles of food or samples thereof, utensils, or vessels seized under section 9, shall, as soon as possible, be produced before a magistrate :

[2][Provided that where a sample of an article has been sent to a public or Government analyst, the article or sample thereof may be produced before the Magistrate after the receipt of the certificate of the public or the Government analyst, as the case may be :

Provided further that where a sample of an article sent to the public or Government analyst is certified by him to be not adulterated or to be what it purports or is represented to be, the article and the vessel or utensil seized therewith under section 9 may be returned, at the cost of the local authority in whose area the seizure was made, to the owner or person from whose possession the same was seized.]

(2) Whether or not complaint is laid before the Magistrate of any offence under the Indian Penal Code or under this Act, if it appears to the Magistrate on taking such evidence as he thinks necessary that any such article is adulterated or other than what it purports or is represented to be, or any such utensil or vessel is of such kind or in such state as is prescribed in section 9, he may order the same— Central Act XLV of 1860.

(*a*) to be forfeited to the local authority, or

(*b*) to be destroyed at the charge of the owner or person in whose possession it was at the time of seizure in such manner as to prevent the same being again exposed or hawked about for sale or used for human food or for the manufacture or preparation of or for containing any such article as aforesaid.

[1] These words were substituted for the words " the public analyst " by section 8 of the Madras Prevention of Adulteration (Amendment) Act, 1935 (Madras Act XIX of 1935).

[2] These provisos were substituted for the original proviso by section 9, *ibid.*

Purchaser may have food analysed.

13. (1) Any purchaser of any article of food shall be entitled, if [1] [a public analyst or public analysts have been appointed] for the area within which such article is purchased, on payment of such fees as may be prescribed by the authority [2] [appointing such analyst or analysts] to have such article analysed by [3] [such public analyst or any of such public analysts] and to receive from him a certificate of the result of his analysis.

(2) Before submitting such article to be analysed as aforesaid, the purchaser shall notify to the seller his intention to have it so analysed; and the public analyst on receiving such article for analysis shall divide it into three parts, of which one is to be analysed, another to be retained by him in order to be returned with his certificate and the third to be delivered on demand to the seller; provided that each part other than the part analysed, shall be marked and sealed or fastened up in such manner as its nature permits.

Power of local executive officer to take samples for analysis.

[4] [**14.** (1) The local executive officer may—

(*a*) take a sample of any article of food from—

(i) any person exposing such article for sale, or

(ii) any person who is in the course of conveying it or of delivering or preparing to deliver it to a purchaser or consignee, or

(iii) a consignee after delivery to him; and

(*b*) send such sample for analysis to the public analyst or any of the public analysts appointed for the area within which such sample has been taken.

Explanation.—The power conferred by this sub-section on the local executive officer includes power to break open any receptacle or package in which any article of food may be contained.

(2) Where any sample is taken under sub-section (1), the cost thereof calculated at the rate at which the article is usually sold in the market shall be tendered or paid to the person from whom it is taken.

(3) Any person who in any manner whatsoever prevents the local executive officer or any person duly authorized by him from taking a sample under sub-section (1) shall, where his act does not amount to an offence under the Indian Penal Code, be punished with fine which may extend to one hundred rupees.]

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[1] These words were substituted for the words " a public analyst has been appointed " by section 10 of the Madras Prevention of Adulteration (Amendment) Act, 1935 (Madras Act XIX of 1935).

[2] These words were substituted for the words " appointing the analyst " by *ibid.*

[3] These words were substituted for the words " such public analyst " by *ibid.*

[4] This section was substituted for the original section by section 11, *ibid.*

Procedure when article is purchased for analysis.

15. [1][(1) When the local executive officer takes a sample of any article of food with the intention of sending it for analysis to any public analyst appointed for the local area, he shall—

(*a*) give notice in writing of his intention to have it so analysed to the person from whom he has taken the sample;

(*b*) separate the sample then and there into three parts and mark and seal or fasten up each part in such manner as its nature permits; and

(*c*) (i) deliver one of the parts to the person from whom the sample has been taken;

(ii) send another part for analysis to any such public analyst; and

(iii) retain the third part for production in case proceedings are taken or for analysis by the Government analyst under sub-section (2) of section 16, as the case may be.]

(2) If the [2][person from whom the sample has been taken] declines to accept one of the parts, the public analyst receiving a sample for analysis shall divide it into two parts and shall seal or fasten up one of those parts and shall cause it either upon receipt of the sample or when he delivers his certificate, to be delivered [3][. . . . .] to the local executive officer who shall retain it for production in case proceedings are taken.

Public analyst's certificate.

16. (1) Every public analyst to whom a sample has been submitted under this Act shall deliver to the person so submitting it a certificate in the form prescribed in the schedule to this Act, or to the like effect, specifying the result of his analysis.

[4][(2) Where the sample was sent by the local executive officer, he may, if not satisfied with the certificate delivered to him under sub-section (1), subject to such rules as may be prescribed by the [5][State Government] and the payment of such fees, if any, as may be fixed by them in this behalf, send to the Government analyst for analysis the part referred to in sub-clause (iii) of clause (*c*) of sub-section (1) of section 15. The Government analyst shall thereupon analyse such

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[1] This sub-section was substituted for the original sub-section by section 12 (i) of the Madras Prevention of Adulteration (Amendment) Act, 1935 (Madras Act XIX of 1935).

[2] These words were substituted for the word "seller" by section 12 (ii), *ibid.*

[3] The words "to the purchaser or" were omitted by *ibid.*

[4] These sub-sections were substituted for the original sub-section (2) by section 13, *ibid.*

[5] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

part and grant a certificate in the form prescribed in the schedule to this Act or to the like effect, specifying the result of his analysis.

(3) The certificate granted by the Government analyst under sub-section (2) shall supersede the certificate delivered by the public analyst under sub-section (1).

(4) Where a certificate obtained from the Government analyst under sub-section (2) is produced in any proceeding under this Act or under sections 272 to 276 of the Indian Penal Code, it shall not be necessary in such proceeding to produce any part of the sample of food taken for analysis.

Central Act XLV of 1860.

(5) Any document purporting to be a certificate signed by a public analyst unless it has been superseded under sub-section (3), or any document purporting to be a certificate signed by the Government analyst, may be used as evidence of the facts stated therein in any proceeding under this Act or under sections 272 to 276 of the Indian Penal Code:

Central Act XLV of 1860.

Provided that any Court before which a case under this Act is pending, whether exercising original, appellate or revisional jurisdiction, may, in its discretion, at the request either of the accused or of the complainant, cause any article of food to be sent for analysis to the Government analyst, unless it has already been analysed by him under sub-section (2). The Government analyst shall thereupon analyse such article and report the result of his analysis to the said Court. The expenses of such analysis shall be paid by the accused or the complainant, as the Court may by order direct.]

Power of State Government to appoint local executive officers in certain cases.

[1][**16-A.** (1) The [2][State Government] may appoint any public servant to exercise the functions of any local executive officer under this Act.

(2) If in the opinion of the [2][State Government], such appointment was rendered necessary on account of the failure of the local executive officer to carry out any of the provisions of this Act, the expenses incurred by such public servant in exercising the functions of the local executive officer, shall be borne by the local authority concerned.

Explanation.—If any question arises as to whether any expense was properly incurred by any public servant appointed under this section, it shall be referred to the [2][State Government] whose decision shall be final.

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[1] Sections 16-A and 16-B were inserted by section 14 of the Madras Prevention of Adulteration (Amendment) Act, 1935 (Madras Act XIX of 1935).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Power of State Government to have articles analysed.

16-B. The [1] [State Government] may, in relation to any matter appearing to them to affect the general interests of the consumers of any article of food, direct any public servant to procure for analysis samples of such article of food and thereupon such public servant shall have all the powers of a local executive officer under this Act and this Act shall apply as if such public servant were the local executive officer, with the following modifications, namely :—

(*a*) Both the parts referred to in sub-clauses (ii) and (iii) of clause (*c*) of sub-section (1) of section 15 shall be forwarded to the Government analyst who shall analyse one of the parts and if he finds it adulterated, he shall send the other part with his certificate to the local executive officer of the place where the sample was procured ; and thereupon such officer shall, subject to the rules, if any, prescribed by the [1] [State Government], take proceedings or cause proceedings to be taken as if he had himself caused the analysis to be made ; and

(*b*) any fee for such analysis fixed by the [1] [State Government], the cost of the sample, and the expenditure incurred in procuring it, including the travelling allowances, if any, of the public servant procuring the same, shall be payable by the local authority of the place where the sample was procured.]

Jurisdiction of magistrates.

17. Third-class magistrates shall not try any offence under this Act unless they have been generally or specially empowered in this behalf by the [1] [State Government].

Institution of proceedings in courts.

18. No prosecution under this Act shall be instituted except on the complaint of the purchaser or with the consent in writing of the local executive officer.

No proceedings to be instituted more than three months after the offence.

19. No prosecution under this Act shall be commenced after the expiry of three months after the commission of the offence :

[2][Provided that a prosecution in respect of an offence under section 6-A may be commenced at any time after the vendor gives notice of his intention to plead the warranty by way of defence under the first proviso to sub-section (2) of section 6 and before the expiry of three months from the date on which the prosecution against the vendor is finally disposed of.]

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[2] This proviso was substituted by section 2 of the Madras Prevention of Adulteration (Amendment) Act, 1939 (Madras Act IV of 1939).

[1] [19-A. No suit, prosecution, or other proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or any rules or by-laws made or orders issued thereunder.] Saving for acts done in good faith under the Act.

[2] [20. (1) The [3] [State Government] may make rules to carry out all or any of the purposes of this Act and not inconsistent therewith. Power of State Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, they may make rules—

(*a*) prescribing the classes or qualifications of persons to whom, and the conditions on which, the local executive officer may, under section 3, delegate his powers ;

(*b*) determining the limits within which the local executive officer may exercise his powers, whether such limits are within or without the local area in respect of which he holds any public office ;

(*c*) prescribing in the interests of public health the state in which utensils and vessels used for manufacturing, preparing or containing any food intended for sale shall be kept, and prohibiting the use of utensils and vessels made, in whole or in part, of materials likely to injure such food ;

(*d*) prescribing the manner in which notice of any addition, admixture or deficiency shall be given to the purchaser of any article of food ;

(*e*) prescribing standards of purity for milk, cream, butter, ghee, cheese or any food and determining what deficiency in any normal constituent of any of these articles or what addition of any extraneous matter or proportion of water in any such article or any preparation of the same shall for the purposes of this Act raise a presumption until the contrary is proved, that the milk, cream, butter, ghee, cheese, or food is not genuine or is injurious to health ;

(*f*) prohibiting or regulating in the interests of public health—

(i) the addition of water or other diluent or adulterant to any food ;

(ii) the abstraction of any ingredient from any food ; and

(iii) the sale of any food to which such addition or from which such abstraction has been made or which has been otherwise artificially treated ;

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[1] Section 19-A was inserted by section 15 of the Madras Prevention of Adulteration (Amendment) Act, 1935 (Madras Act XIX of 1935).

[2] Section 20 was substituted for the original section by section 2 of the Madras Prevention of Adulteration (Amendment) Act, [4][1932] (Madras Act III of 1932).

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[4] The figures "1932" were added by section 19 of the Madras Prevention of Adulteration (Amendment) Act, 1935 (Madras Act XIX of 1935).

(*g*) providing for the manner in which any receptacle containing dried, condensed, skimmed or separated milk is to be labelled or marked ; [1] [. . . . .]

(*h*) authorizing the persons taking samples of any food for the purpose of analysis under this Act to add preservatives to such sample for the purpose of maintaining it in a suitable condition for analysis and regulating the nature of such preservatives and the method of adding them ;

[2] [(*i*) prescribing the form of the written warranty referred to in sub-section (2) of section 6 ;

(*j*) prescribing the conditions under which the local executive officer may send samples to the Government analyst for analysis under sub-section (2) of section 16 ; and

(*k*) prescribing the conditions, if any, under which the local executive officer may take proceedings or cause proceedings to be taken under section 16-B.]

(3) In making any rule under clauses (*c*), (*d*), (*f*) or (*g*) of sub-section (2), the [3] [State Government] may provide that a breach thereof shall be punishable—

(*a*) in the case of a first conviction with fine which may extend to one hundred rupees ; and

(*b*) in the case of a subsequent conviction, with fine which may extend to five hundred rupees.

(4) All rules made under this section shall be published in the [4] [Official Gazette] and upon such publication shall have effect as if enacted in this Act.]

By-laws.

[5] [**21.** (1) Every local authority exercising control over any local area to which this Act has been extended, may, under the provisions with regard to the making of by-laws contained in the Act under which such local authority is established, make by-laws, not inconsistent with this Act or the rules made under section 20, for all or any of the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the local authority may make by-laws—

(*a*) for the prevention of the manufacture or preparation for sale, the exposure for sale or hawking about, or the sale, of articles of food which are adulterated or other than what they purport or are represented to be ;

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[1] The word " and " was omitted by section 16 (i) of the Madras Prevention of Adulteration (Amendment) Act, 1935 (Madras Act XIX of 1935).

[2] These clauses were added by section 16 (ii), *ibid.*

[3] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

[4] These words were substituted for the words " *Fort St. George Gazette* " by the Adaptation Order of 1937.

[5] This section was substituted for the original section by section 17 of the Madras Prevention of Adulteration (Amendment) Act, 1935 (Madras Act XIX of 1935).

(*b*) for rendering licences necessary for the manufacture or preparation for sale, the exposure for sale or hawking about, or the sale, of articles of food and prescribing the fees payable for such licences, provided that no such licence shall be rendered necessary for any purpose for which a licence has already been obtained under any of the provisions of the Act under which the local authority is established or any rule or by-law made thereunder; and

(*c*) for the inspection and the regulation of places in which articles of food are kept, stored, packed, cleansed, manufactured, prepared or exposed for sale, hawked about or sold.]

22. The provisions of sections 2 to 21 of this Act shall be read as supplemental to the Act under which the local authority concerned is constituted.

SCHEDULE.

Form of Certificate.

To *

I, the undersigned [Public analyst for the / Government analyst . . . . , do] †

hereby certify that I received on the day of 195 from ‡ a sample of for analysis (which then weighed §) and have analysed the same and declare the result of my analysis to be as follows :—

I am of opinion that the same is a sample of genuine

or

I am of opinion that the said sample contained the parts as under, or the percentages of foreign ingredients as under :—

‖ Observations.

Signed this day of 195

A.B. at

In the case of a certificate regarding milk, butter, ghee or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

---

* Here insert the name of the person submitting the article for analysis.

† These were substituted for the words "public analyst for the . . . do" by section 18 of the Madras Prevention of Adulteration (Amendment) Act, 1935 (Madras Act XIX of 1935).

‡ Here insert the name of the person delivering the sample. If the sample is received by post or by railway, entry should be made accordingly.

§ When the article cannot be conveniently weighed, this passage may be erased or the blank may be left unfilled.

‖ Here the analyst may insert at his discretion his opinion as to whether the mixture (if any) was for the purpose of rendering the article potable or palatable, or preserving it, or of improving the appearance, or was unavoidable, and may state whether in excess of what is ordinary or otherwise and whether the ingredients or materials mixed are or are not injurious to health.

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